

IN THE SUPREME COURT OF THE STATE OF NEVADA

Case Nos. 79425 and 79526

ATHANASIOS SKARPELOS, AN INDIVIDUAL

Appellants,

v.

WEISER ASSET MANAGEMENT, LTD., A BAHAMAS COMPANY AND
WEISER (BAHAMAS) LTD., A BAHAMAS COMPANY,

Respondents.

WEISER ASSET MANAGEMENT, LTD., A BAHAMAS COMPANY AND
WEISER (BAHAMAS) LTD., A BAHAMAS COMPANY

Appellants,

v.

ATHANASIOS SKARPELOS, AN INDIVIDUAL,

Respondent.

Appeal from the Judgment of the Second Judicial District Court, Washoe County
District Court Case No.: CV15-02259
Second Judicial District Court of the State of Nevada
In and For the County of Washoe

**JOINT APPENDIX
VOLUME 8**

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<p style="text-align: right;">Page 182</p> <p>1 project?</p> <p>2 A Well, I met a few researchers from France and</p> <p>3 from Greece there, professors, and we discussing the</p> <p>4 various projects for cancer and Alzheimer's. I like to</p> <p>5 get involved in that.</p> <p>6 Q And did you meet some of the researchers that</p> <p>7 were involved?</p> <p>8 A Pardon me?</p> <p>9 Q Did you meet some of the researchers that were</p> <p>10 involved?</p> <p>11 A Yes, yes, I hang out with them.</p> <p>12 Q And at some point did you decide to form a</p> <p>13 company?</p> <p>14 A Yes.</p> <p>15 Q Okay. And what company was that?</p> <p>16 A That's Anavex Life Sciences.</p> <p>17 Q What does Anavex Life Sciences do?</p> <p>18 A It's a biotech company basically in New York,</p> <p>19 New York, and traded on NASDAQ Stock Exchange right</p> <p>20 now.</p> <p>21 Q Right now it's traded on NASDAQ?</p> <p>22 A Yes.</p> <p>23 Q Was it traded on NASDAQ initially?</p> <p>24 A No, no. In the early days it was a small</p>	<p style="text-align: right;">Page 183</p> <p>1 company, penny stock.</p> <p>2 Q And who formed Anavex?</p> <p>3 A Myself with the help of a few other people.</p> <p>4 Q When was it formed?</p> <p>5 A I believe this was around 2007.</p> <p>6 Q Was that a publicly traded stock?</p> <p>7 A Yes.</p> <p>8 Q What exchange?</p> <p>9 A I get in the small market, OTC, and then</p> <p>10 upgraded in 2015 to NASDAQ.</p> <p>11 Q I'm sorry. I didn't hear the initial exchange.</p> <p>12 A OTC.</p> <p>13 Q OTC.</p> <p>14 A A small market.</p> <p>15 Q And did you invest money in Anavex?</p> <p>16 A Yes.</p> <p>17 Q Okay. Did you acquire stock in Anavex?</p> <p>18 A Yes.</p> <p>19 Q Okay. Would you turn to Exhibit 1, please.</p> <p>20 A Yes.</p> <p>21 Q And tell us what Exhibit 1 is.</p> <p>22 A It's a certificate of Anavex Life Science with</p> <p>23 my name on it.</p> <p>24 Q 6,633,332 shares; correct?</p>
<p style="text-align: right;">Page 184</p> <p>1 A Yes.</p> <p>2 Q Okay. And what is the certificate number of</p> <p>3 this certificate?</p> <p>4 A 0753.</p> <p>5 Q Okay. You understand that the shares that were</p> <p>6 represented by this certificate are the shares at issue</p> <p>7 in this case; right?</p> <p>8 A Yes.</p> <p>9 Q Okay. Do you see that red print in the upper</p> <p>10 left-hand corner?</p> <p>11 A Yes.</p> <p>12 Q Okay. Tell us what that is.</p> <p>13 THE COURT: Mine is black and white.</p> <p>14 THE WITNESS: Mine is black and white.</p> <p>15 MR. ANDERSON: I apologize, Your Honor. Mine is in</p> <p>16 color.</p> <p>17 Can I rephrase the question?</p> <p>18 THE COURT: Sure.</p> <p>19 BY MR. ANDERSON:</p> <p>20 Q Mr. Skarpelos, do you see the language directly</p> <p>21 under the 753 number?</p> <p>22 A Yes.</p> <p>23 Q Okay. What is that?</p> <p>24 A That's the legend. It's the restriction for a</p>	<p style="text-align: right;">Page 185</p> <p>1 major shareholder like myself. They restrict me by</p> <p>2 selling the stock, because I have to go through</p> <p>3 regulations in order for me to sell the stocks, because</p> <p>4 I have access to insider information.</p> <p>5 Q Okay. And tell us briefly what an insider is.</p> <p>6 A An insider is a director of the company or any</p> <p>7 person like a big major shareholder or any other person</p> <p>8 who has and holds inside information. So in order for</p> <p>9 the regulators to protect the investors, the individual</p> <p>10 investors, the small investors, they put the legend on</p> <p>11 the big shareholders.</p> <p>12 Q Okay. And are those shareholders that own more</p> <p>13 than 10 percent of the company's stock?</p> <p>14 A Yes.</p> <p>15 Q Have you ever heard the term insider block?</p> <p>16 A Yes.</p> <p>17 Q Okay. Is that what this certificate is?</p> <p>18 A Yes.</p> <p>19 Q And the shares that are at issue in this case</p> <p>20 are one-half of the shares in Exhibit 1; correct?</p> <p>21 A Say that again.</p> <p>22 Q The shares that are at issue in this case are</p> <p>23 3,300,000 roughly; correct?</p> <p>24 A Yes.</p>

<p style="text-align: right;">Page 186</p> <p>1 Q Not the full 6 million?</p> <p>2 A Yes.</p> <p>3 Q Okay. Who is Christos Livadas?</p> <p>4 A Christos Livadas, it's my friend which I met</p> <p>5 back in the '90s in Calgary, Alberta.</p> <p>6 Q Early '90s?</p> <p>7 A Yes.</p> <p>8 Q Okay. And how is it that you came to meet</p> <p>9 Mr. Livadas?</p> <p>10 A My inlaws, my wife's family, and Christos'</p> <p>11 family, they was from the same community, the same</p> <p>12 church. He was very, very good friend.</p> <p>13 Q So it was a family friend?</p> <p>14 A Yes.</p> <p>15 Q And did you continue to see Mr. Livadas over</p> <p>16 the years after you initially met him?</p> <p>17 A Most of the time except the period of a few</p> <p>18 years which I left from Canada back to Greece, so I</p> <p>19 believe from '99, 2000, say, to 2007 I must have seen</p> <p>20 him maybe once if I remember.</p> <p>21 Q Okay. So during '99 to 2007 you didn't have</p> <p>22 any dealings with Mr. Livadas?</p> <p>23 A No, no.</p> <p>24 Q Okay. Did something happen in 2007 that</p>	<p style="text-align: right;">Page 187</p> <p>1 changed that?</p> <p>2 A Yeah, we met again. We met with Mr. Livadas</p> <p>3 again.</p> <p>4 Q Okay. What was the circumstance of the</p> <p>5 meeting?</p> <p>6 A I believe he was visiting Europe at that time</p> <p>7 and we met and we socialized together as old friends</p> <p>8 and we chat about his activities in Bahamas and general</p> <p>9 stuff.</p> <p>10 Q Okay. Did you discuss Anavex at all?</p> <p>11 A Yes, of course.</p> <p>12 Q Okay. You heard Mr. Livadas testify yesterday</p> <p>13 about a transaction that occurred in 2007 involving</p> <p>14 Anavex stock?</p> <p>15 A Yes.</p> <p>16 Q Okay. Would you turn to Exhibit 3, please.</p> <p>17 I'm sorry. Exhibit 5.</p> <p>18 A Yes.</p> <p>19 Q Exhibit 5 has been admitted into evidence.</p> <p>20 What is this document?</p> <p>21 A This document, it shows -- it's a stock</p> <p>22 purchase agreement and it's one of the sales I done</p> <p>23 back in 2007 to a company named Amsbach.</p> <p>24 Q And were you aware at the time -- strike that.</p>
<p style="text-align: right;">Page 188</p> <p>1 If you look at the third page, you signed this</p> <p>2 document; correct?</p> <p>3 A Yes.</p> <p>4 Q And were you aware at the time you signed this</p> <p>5 document that Amsbach was the buyer?</p> <p>6 A Yes, of course.</p> <p>7 Q Okay. Now, who prepared this document?</p> <p>8 A I believe it was prepared by the people in</p> <p>9 Amsbach. This is one of the -- this document here,</p> <p>10 it's a selective document, it's only one of a series of</p> <p>11 documents that was packaged together. There must be</p> <p>12 around seven documents and here I see just one.</p> <p>13 Q Okay. Do you know what the other seven</p> <p>14 documents were?</p> <p>15 A Of course I do.</p> <p>16 Q What are they?</p> <p>17 A This is -- because I'm the major shareholder of</p> <p>18 the company and an insider, I have to complete -- I</p> <p>19 have to complete my insider trading report, I have to</p> <p>20 do a letter of direction, a letter of direction, all</p> <p>21 the other stuff, two pieces of photo IDs notarized by</p> <p>22 lawyers. I have to do all these things. I sent them</p> <p>23 to NATCO with a letter of direction from me, the owner</p> <p>24 of the stock, to NATCO to do their appropriate</p>	<p style="text-align: right;">Page 189</p> <p>1 transaction. In this case that happens. But here it's</p> <p>2 just one document out of six.</p> <p>3 Q Okay. Were the shares that you were selling by</p> <p>4 this agreement restricted as well?</p> <p>5 A Yes.</p> <p>6 Q Okay. And if you look at the restriction on</p> <p>7 Exhibit 1, that refers to an opinion of counsel?</p> <p>8 A Yes.</p> <p>9 Q Do you know what that is?</p> <p>10 A Yes, of course. One of the six, seven</p> <p>11 documents together with this agreement, it's an opinion</p> <p>12 from the securities lawyer of the company.</p> <p>13 Q Do you have an understanding why that's</p> <p>14 necessary?</p> <p>15 A It is necessary because the company and the</p> <p>16 securities lawyer, they have to both of them decide if</p> <p>17 my legend can be -- the legend and the certificates</p> <p>18 like mine in this case, the restricted stock, has</p> <p>19 regulations on it. I can sell only 3 percent of my</p> <p>20 holdings every quarter. And this has to happen after</p> <p>21 the company agrees with me to do that. You have to be</p> <p>22 advised by a securities lawyer. Other than that I'm</p> <p>23 going to be having troubles.</p> <p>24 Q Okay. So because you're an insider -- and I</p>

<p style="text-align: right;">Page 190</p> <p>1 should ask, did you ever become a director at some 2 point?</p> <p>3 A Yes, in 2013, January of 2013.</p> <p>4 Q Okay. So prior to 2013 you were an insider 5 because you owned a substantial percentage of the 6 stock?</p> <p>7 A Yes.</p> <p>8 Q And in 2013 you became a director?</p> <p>9 A Yes.</p> <p>10 Q Okay. So you said that there were a number of 11 other documents that were related to complete this 12 transaction in Exhibit 5.</p> <p>13 A Yes.</p> <p>14 Q Who was Amsbach, do you know?</p> <p>15 A I believe at that time it was a legitimate 16 company in investment community somewhere in North 17 America. That's what they told me. And it was a 18 company that can raise funds, like mutual funds, 19 something like that.</p> <p>20 Q And how is it that you were introduced to 21 Amsbach?</p> <p>22 A With Christos Livadas.</p> <p>23 Q So Christos brought Amsbach to you?</p> <p>24 A Yes.</p>	<p style="text-align: right;">Page 191</p> <p>1 Q Did you ever get paid pursuant to this 2 agreement?</p> <p>3 A No.</p> <p>4 Q Did you do anything about it?</p> <p>5 A I tried. I tried many times. I talked to my 6 lawyers, but I was not lucky to do anything because it 7 looks to me -- we find out it's an offshore.</p> <p>8 Q What does that mean?</p> <p>9 A It's a company in an unknown place off shores. 10 Nobody knows who is behind the company.</p> <p>11 Q So basically you didn't pursue it because you 12 felt it wouldn't be worthwhile?</p> <p>13 A Exactly.</p> <p>14 Q Okay. Let's look at Exhibit 6.</p> <p>15 A Yes.</p> <p>16 Q You heard Mr. Livadas testify about this email 17 yesterday. And I didn't put the connection together 18 beforehand, but this email relates to Exhibit 5; 19 correct?</p> <p>20 A Yes.</p> <p>21 Q Okay. And this is you basically saying that 22 you sent the paperwork that you talked about earlier; 23 is that right?</p> <p>24 A Yes.</p>
<p style="text-align: right;">Page 192</p> <p>1 Q And you're asking Christos if he can get the 2 money?</p> <p>3 A Yes.</p> <p>4 Q Okay. And that's the money that Amsbach owes 5 you?</p> <p>6 A Of course.</p> <p>7 Q Okay. What was Christos' response?</p> <p>8 A Christos like always, most of the time, he says 9 don't worry, they're good people and you're going to 10 get your money. But this is just selective email again 11 from Christos. There must be more emails.</p> <p>12 Q I don't want you to speculate what else must be 13 out there. My question is do you know whether Christos 14 ever tried to get Amsbach to pay you?</p> <p>15 A That's what he said. He says he's tried very 16 hard.</p> <p>17 Q Now, at some point in time were you introduced 18 to Weiser Asset Management?</p> <p>19 A Yes.</p> <p>20 Q Okay. When did that happen?</p> <p>21 A That was -- I knew about the Weiser Asset 22 Management. Christos talk to me. And I believe around 23 2011 we got closer enough that they invite me to 24 Bahamas to open an account there.</p>	<p style="text-align: right;">Page 193</p> <p>1 Q So Christos kind of asked you to come open an 2 account or what happened?</p> <p>3 A Yes, of course.</p> <p>4 Q Did you have an understanding of what WAM was 5 trying to do at that point in time?</p> <p>6 A Yes.</p> <p>7 Q Okay. Tell us what that is.</p> <p>8 A My understanding was it's going to be a 9 boutique broker-dealer stockbrokers firm like ones we 10 have here in the States and in Canada. And I was very 11 excited to listen to that and to hear that.</p> <p>12 Broker-dealer is like a small boutique firm.</p> <p>13 Q Okay. Do you know whether WAM was licensed at 14 that time?</p> <p>15 A I believe they was not licensed at that time.</p> <p>16 MR. NORK: Objection. Lacks foundation.</p> <p>17 THE COURT: Go ahead. I'll sustain the objection.</p> <p>18 You can lay some foundation.</p> <p>19 BY MR. ANDERSON:</p> <p>20 Q Did Weiser Asset Management personnel tell you 21 whether they were licensed or not?</p> <p>22 MR. NORK: Objection. Hearsay.</p> <p>23 THE WITNESS: No.</p> <p>24 THE COURT: Well, that would be a statement of a</p>

<p style="text-align: right;">Page 194</p> <p>1 party opponent, so it's not hearsay, a party opponent</p> <p>2 or its agent. So you can answer that question if you</p> <p>3 can identify who it is that he spoke to, though, as</p> <p>4 opposed to just someone.</p> <p>5 MR. ANDERSON: Yes, Your Honor.</p> <p>6 BY MR. ANDERSON:</p> <p>7 Q When you were first introduced to Weiser Asset</p> <p>8 Management who were you dealing with?</p> <p>9 A I was speaking with Mr. Livadas. And then</p> <p>10 since I move to Bahamas to open an account I met the</p> <p>11 other people there, Mr. Howard Daniels.</p> <p>12 Q Okay. Did Mr. Daniels say anything about the</p> <p>13 licensing for WAM?</p> <p>14 A Of course.</p> <p>15 Q Tell us about that.</p> <p>16 A Mr. Daniels and Mr. Livadas, they told me</p> <p>17 they're going to get their license soon, month by</p> <p>18 month, week by week.</p> <p>19 Q And you recall that conversation?</p> <p>20 A Pardon me?</p> <p>21 Q You specifically recall that conversation?</p> <p>22 A One hundred percent.</p> <p>23 Q Okay. What was Christos' relationship with WAM</p> <p>24 from your understanding?</p>	<p style="text-align: right;">Page 195</p> <p>1 A My understanding was Christos was behind as a</p> <p>2 shareholder or an owner for WAM.</p> <p>3 Q And how did you come about that understanding?</p> <p>4 A He told me that a few times. Other times he's</p> <p>5 told me he's making some other people in front.</p> <p>6 Q Other than Christos telling you, you don't</p> <p>7 really know what his relationship was with WAM?</p> <p>8 A No.</p> <p>9 Q Do you know what Weiser Bahamas, Ltd., is?</p> <p>10 A I hear the first time about Weiser Bahamas in</p> <p>11 this complaint.</p> <p>12 Q Okay. And when you say "this complaint," in</p> <p>13 the lawsuit?</p> <p>14 A In the dispute, yes.</p> <p>15 Q Okay. And when I say "Weiser Bahamas," it's</p> <p>16 also known as Weiser Capital or we're calling it Weiser</p> <p>17 Capital; correct?</p> <p>18 A Yes.</p> <p>19 Q So the first time you ever heard of Weiser</p> <p>20 Capital was in the complaint filed by NATCO in this</p> <p>21 matter?</p> <p>22 A Yes.</p> <p>23 Q Do you have an understanding of what Weiser</p> <p>24 Capital is?</p>
<p style="text-align: right;">Page 196</p> <p>1 A No.</p> <p>2 Q When you submitted an account application to</p> <p>3 WAM where were you?</p> <p>4 A I was in Bahamas. I done that in Bahamas.</p> <p>5 Q Would you look at Exhibit 7, please.</p> <p>6 A Yes.</p> <p>7 Q Now, you indicated you were in the Bahamas.</p> <p>8 Who else was physically with you when you opened the</p> <p>9 account or when you applied to open the account?</p> <p>10 A The day I fill out the application?</p> <p>11 Q Yes.</p> <p>12 A I believe it was Lambros Pedafronimos.</p> <p>13 Q Can you spell that last name for the court</p> <p>14 reporter, please.</p> <p>15 A P-e-d-a-f-r-o-n-i-m-o-s, Lambros,</p> <p>16 L-a-m-b-r-o-s.</p> <p>17 Q Other than yourself and Lambros who else was</p> <p>18 there?</p> <p>19 A It was Howard Daniels, H-o -- I don't know how</p> <p>20 you spell.</p> <p>21 Q I think she's got it.</p> <p>22 Howard Daniels, yourself, Lambros. Anyone else?</p> <p>23 A And maybe another guy, a friend of us, was</p> <p>24 there, Stelios, S-t-e-l-i-o-s.</p>	<p style="text-align: right;">Page 197</p> <p>1 Q And Mr. Livadas was not there?</p> <p>2 A I believe not.</p> <p>3 Q Now, if you look at Exhibit 7, tell us what</p> <p>4 this document is.</p> <p>5 A This is an email between myself and Howard</p> <p>6 Daniels and cc Lambros discussing about my arrival in</p> <p>7 the office, in the lawyer's office, to fill out the</p> <p>8 application.</p> <p>9 Q Okay. Was Mr. Daniels sort of your primary</p> <p>10 contact who was with WAM?</p> <p>11 A At that point, yes.</p> <p>12 Q Okay. And what was your understanding of his</p> <p>13 role?</p> <p>14 A I believe his role was the CEO of the company.</p> <p>15 That's what they told me, president or CEO or something</p> <p>16 like that.</p> <p>17 Q And this email indicates that he sent you an</p> <p>18 email on May 27th, 2011; correct?</p> <p>19 A Um-hum.</p> <p>20 Q Is that "Yes"?</p> <p>21 A Yes.</p> <p>22 Q Sorry. You have to answer audibly.</p> <p>23 A Yes.</p> <p>24 Q And his email address was</p>

<p style="text-align: right;">Page 198</p> <p>1 hbdaniels@weiser.com; is that right?</p> <p>2 A Yes.</p> <p>3 Q And it looks like he sent this email to your</p> <p>4 Bizex account?</p> <p>5 A Yes.</p> <p>6 Q What is Bizex?</p> <p>7 A Bizex is a private server, what they call it,</p> <p>8 which only is Christos Livadas. And he propose to</p> <p>9 myself to open an account there in order to be secure</p> <p>10 every time I spoke with him.</p> <p>11 Q Okay. And you responded to Mr. Daniels about</p> <p>12 the process of opening the account; correct?</p> <p>13 A Yes.</p> <p>14 Q Okay. After this email did you ever receive</p> <p>15 any other emails that you can recall directly from</p> <p>16 someone at weiser.com?</p> <p>17 A No.</p> <p>18 Q And at this point when these emails are</p> <p>19 happening were you in the Bahamas already?</p> <p>20 A I believe so, yes, or on the way to Bahamas</p> <p>21 from Miami.</p> <p>22 Q Okay. And I asked you the question if you</p> <p>23 received emails from weiser.com. Did you receive any</p> <p>24 other emails after this directly from someone at Weiser</p>	<p style="text-align: right;">Page 199</p> <p>1 Asset Management?</p> <p>2 A I don't remember, I don't believe so, from</p> <p>3 Howard Daniels, that guy.</p> <p>4 Q Well, from anyone else that -- other than</p> <p>5 Mr. Livadas, anyone else who claims to have been</p> <p>6 affiliated with Weiser.</p> <p>7 A From Mr. Livadas many email.</p> <p>8 Q Right. Other than Mr. Livadas, not</p> <p>9 Mr. Livadas, did anyone else who had a Weiser Asset</p> <p>10 Management email account email you at any time?</p> <p>11 A No.</p> <p>12 Q Would you look at Exhibit 8, please.</p> <p>13 A Yes.</p> <p>14 Q Do you know what this document is?</p> <p>15 A It says Identity Verification Form, IVF.</p> <p>16 Q And do you recognize this document?</p> <p>17 A Yes. It's my letters here, this information,</p> <p>18 and I signed it May 31st, 2011.</p> <p>19 Q Okay. You were actually with Howard Daniels at</p> <p>20 this point?</p> <p>21 A Yes.</p> <p>22 Q Okay. And the first paragraph reads, "This</p> <p>23 form must be completed for each beneficial owner and</p> <p>24 signatory of a Weiser Asset Management account,</p>
<p style="text-align: right;">Page 200</p> <p>1 including individuals named on powers of attorney and</p> <p>2 trading authorizations. The information requested is</p> <p>3 required under anti-money laundering regulations of the</p> <p>4 Bahamas. Please copy this form as necessary to</p> <p>5 complete for each relevant individual."</p> <p>6 Do you see that?</p> <p>7 A Yes.</p> <p>8 Q Okay. Did you or anyone else complete a copy</p> <p>9 of this form for somebody other than yourself?</p> <p>10 A No.</p> <p>11 Q Did you intend any beneficial owners on this</p> <p>12 account application other than yourself?</p> <p>13 A No.</p> <p>14 Q Did you intend any signatories other than</p> <p>15 yourself?</p> <p>16 A Never.</p> <p>17 Q Did you execute any powers of attorney for</p> <p>18 anyone but yourself to access or transact on your WAM</p> <p>19 account?</p> <p>20 A Never.</p> <p>21 Q And when I say your "WAM account," the account</p> <p>22 that you were submitting an application for.</p> <p>23 A Yes.</p> <p>24 Q Did you execute any trading authorizations for</p>	<p style="text-align: right;">Page 201</p> <p>1 anyone but yourself to transact on your WAM account?</p> <p>2 A No.</p> <p>3 Q Did WAM ever provide you with any forms for</p> <p>4 doing these things?</p> <p>5 A Never.</p> <p>6 Q Okay. Now, after you filled out that</p> <p>7 information on these first two pages it looks like you</p> <p>8 provided a copy of your passport?</p> <p>9 A Yes.</p> <p>10 Q Okay. And when did that passport expire?</p> <p>11 A 2011, July the 3rd, 2011.</p> <p>12 Q Okay. Did WAM ever ask you to provide updated</p> <p>13 passport information?</p> <p>14 A Never.</p> <p>15 Q Did they ever ask you to provide any updated</p> <p>16 information?</p> <p>17 A Never.</p> <p>18 Q And what are the remaining documents attached</p> <p>19 to this?</p> <p>20 A It's power bill, utility bill, bank letter,</p> <p>21 bank letter, because Weiser, they ask me -- like all</p> <p>22 these brokers, they ask for two additional address</p> <p>23 recommendations to go together with application forms</p> <p>24 in order to open an account. It's very normal process.</p>

<p style="text-align: right;">Page 202</p> <p>1 Q Would you turn to Exhibit 2, please.</p> <p>2 What is this document?</p> <p>3 A This is -- this is application, it's an</p> <p>4 application, Weiser Asset Management application.</p> <p>5 Q Okay. And is this the application you filled</p> <p>6 out with Howard Daniels?</p> <p>7 A Yes.</p> <p>8 Q Tell us about how that happened.</p> <p>9 A I was sitting in the boardroom of their</p> <p>10 lawyer's office in downtown Nassau, Bahamas, myself,</p> <p>11 Mr. Howard Daniels, Lambros Pedafronimos and Stelios, I</p> <p>12 believe. I fill out this application with myself and</p> <p>13 Howard Daniels. The other two guys, they was in and</p> <p>14 out smoking and waiting for me to finish.</p> <p>15 Q Okay. Who actually filled out the application?</p> <p>16 A Howard Daniels, if I remember correctly,</p> <p>17 because this is most of his writing. Howard Daniels,</p> <p>18 because his English was faster.</p> <p>19 Q Okay. So Mr. Daniels would ask you questions</p> <p>20 and you would answer --</p> <p>21 A Yes.</p> <p>22 Q -- and he would check the boxes? Okay.</p> <p>23 If you look at that first paragraph, it mentions --</p> <p>24 the second sentence, "When we accept it, this</p>	<p style="text-align: right;">Page 203</p> <p>1 application and all accompanying or supplemental</p> <p>2 documents form the entire agreement between us for this</p> <p>3 account." Do you see that?</p> <p>4 A Yes.</p> <p>5 Q Okay. Did you ever receive any accompanying or</p> <p>6 supplemental documents from WAM in relation to this</p> <p>7 account application?</p> <p>8 A Never.</p> <p>9 Q Okay. Did WAM ever notify you that they had</p> <p>10 accepted the account application?</p> <p>11 A No.</p> <p>12 Q If you look at page 2 -- I'm sorry -- page 2 of</p> <p>13 10, it looks like you were applying for an individual</p> <p>14 account; correct?</p> <p>15 A Yes.</p> <p>16 Q And you didn't have any other accounts with</p> <p>17 WAM?</p> <p>18 A No.</p> <p>19 Q Ever?</p> <p>20 A Never.</p> <p>21 Q Did you ever submit an account application</p> <p>22 other than this one?</p> <p>23 A No.</p> <p>24 Q And you never asked WAM to open more than one</p>
<p style="text-align: right;">Page 204</p> <p>1 account?</p> <p>2 A Never.</p> <p>3 Q Okay. Look at page 4, please. You didn't fill</p> <p>4 out any information for a co-applicant; correct?</p> <p>5 A Page 4?</p> <p>6 Q I'm sorry. Yeah, 4 of 10.</p> <p>7 A Four of 10. Yes. Go ahead.</p> <p>8 Q Did you ask -- you didn't fill out any</p> <p>9 information for a co-applicant; correct?</p> <p>10 A Correct.</p> <p>11 Q Now, on the next page, 5 of 10, it looks like</p> <p>12 you indicated that you were a 10 percent or more owner</p> <p>13 of Anavex?</p> <p>14 A Yes.</p> <p>15 Q Do you understand why WAM was asking this</p> <p>16 question?</p> <p>17 A I believe it's a normal question they have to</p> <p>18 ask. In opening an account that's very normal.</p> <p>19 Q And you indicated earlier that 10 percent or</p> <p>20 more shareholders and directors have different</p> <p>21 restrictions on their ability to sell shares?</p> <p>22 A Of course. They ask me, but usually the</p> <p>23 institutions like broker-dealers, at least here in U.S.</p> <p>24 and Canada, even in Bahamas also and in Europe, usually</p>	<p style="text-align: right;">Page 205</p> <p>1 they know. As soon as they see a big shareholder they</p> <p>2 know. It's easy for them to find out my role in the</p> <p>3 company. It's all public information.</p> <p>4 Q And down below you indicated that your net</p> <p>5 worth was 1 to \$3 million?</p> <p>6 A Yes.</p> <p>7 Q Okay. And it also indicates on this form that</p> <p>8 you have annual income of 250,000 to 500,000. Do you</p> <p>9 see that?</p> <p>10 A Yes.</p> <p>11 Q Did you check that?</p> <p>12 A No. Mr. Howard Daniels, probably he's asking</p> <p>13 me.</p> <p>14 MR. NORK: Objection. Calls for speculation.</p> <p>15 BY MR. ANDERSON:</p> <p>16 Q Don't say "probably." If you recall what</p> <p>17 Mr. Daniels told you --</p> <p>18 A One hundred percent.</p> <p>19 Q Okay. What did Mr. Daniels say?</p> <p>20 A Exactly his words was --</p> <p>21 THE COURT: Hold on a second, Mr. Skarpelos. In</p> <p>22 the future when somebody makes an objection, I have to</p> <p>23 make a ruling on the objection, so when --</p> <p>24 THE WITNESS: My apologies.</p>

<p style="text-align: right;">Page 206</p> <p>1 THE COURT: That's okay. When Mr. Nork objects, 2 don't answer the answer. 3 THE WITNESS: My apologies. 4 THE COURT: Mr. Anderson rephrased the question. 5 So I'll sustain the objection because of the way you 6 answered it. When you started the answer with 7 "probably," it sounded like you might be guessing or 8 speculating, but now you followed up with you're a 9 hundred percent sure. So only testify to things that 10 you know. Don't guess or speculate. 11 With that, go ahead, Mr. Anderson. 12 MR. ANDERSON: Thank you. 13 BY MR. ANDERSON: 14 Q Do you recall what Mr. Daniels said to you? 15 A Mr. Daniels says to me he's tried to figure out 16 my amount of shares that was there, I left there with 17 them, and the stock price. So he figure out it was 18 around 1 to \$3 million. And from that as a result I 19 should be worth a quarter million dollars a year. It 20 was figures, just figures. 21 Q You didn't tell him that you earned 250,000 or 22 500,000 a year? 23 A I never have income in 2011. 24 Q You never told Mr. Daniels that?</p>	<p style="text-align: right;">Page 207</p> <p>1 A No. 2 Q And if you look on page 6 of 10 -- 3 A Yes. 4 Q -- the box that asks, "When is the earliest you 5 expect to need funds in this account?" -- 6 A Yes. 7 Q -- it look like under three years was checked? 8 A Yes. 9 Q Why did you check that or why did Mr. Daniels 10 check that? 11 A Mr. Daniels was asking me when do you think, 12 Tom, you may sell some stock. He reads these things to 13 me. He said we should put down three years. I say, 14 yes, no problem. He was anxious to sell some of my 15 stock for me. 16 Q On page 8 of 10 you indicated there that -- or 17 at least you told Mr. Daniels that you would be funding 18 the account with certificates of AVXL. 19 A Yes. 20 Q Okay. Is that Anavex? 21 A That's Anavex, yes. 22 Q Whose idea was it to deposit the stock 23 certificates of Anavex? 24 A Mine.</p>
<p style="text-align: right;">Page 208</p> <p>1 Q Okay. And why were you funding your account as 2 this says with your shares? 3 A After they convince and promote me Weiser is 4 going to be investment dealers, I decided to leave the 5 certificates with them, because they told me by having 6 Tom as a client here in the Bahamas we may get 7 alliances faster because I was insider of the company. 8 Q So they indicated to you that by you depositing 9 your stocks it would somehow help them in the licensing 10 process? 11 A Yes. 12 Q Now, still on page 8 down below you selected a 13 cash account? 14 A Where exactly is that? 15 Q If you look down towards the bottom of page 16 8 -- 17 A Yes. 18 Q -- there's a box checked that says "No." Do 19 you see that? 20 A Yes. 21 Q Okay. It says, "No, I do not want the ability 22 to borrow funds in my account which means I will have a 23 cash account." 24 A Yes.</p>	<p style="text-align: right;">Page 209</p> <p>1 Q Do you see where I'm talking about? 2 A Um-hum. Yes. 3 Q Why did you check that box or have Mr. Daniels 4 check that box? 5 A Because he's asking if I like to have a cash 6 account or a margin account. 7 Q Okay. And what is your understanding of a cash 8 account? 9 A My understanding is -- the little bit of 10 understanding I have, margin account is to borrow money 11 in my stock certificates. That's what I know up to 12 that day. Cash account is if I transfer cash in that 13 account or create cash by selling my certificates 14 maybe. I'm not so sure. 15 Q Did you understand that you would be able to 16 borrow money against your certificates? 17 A No. That's why I put no margin. 18 Q Okay. I mean, it says, "I do not want the 19 ability to borrow funds in my account." 20 A Exactly. 21 Q Now, did Mr. Daniels explain to you anything 22 about the difference between margin accounts or cash 23 accounts? 24 A Of course. He's a stockbroker. Mr. Howard</p>

<p style="text-align: right;">Page 210</p> <p>1 Daniels is a Canadian licensed stockbroker, I believe, 2 from Toronto. He was back then.</p> <p>3 Q And did he explain to you at the time he 4 checked this box what a cash account was?</p> <p>5 A Yes, I believe.</p> <p>6 Q What did he say?</p> <p>7 A What I say now, I just said. I discussed with 8 him cash account is if I transfer cash from somewhere 9 else, let's say from Europe or somewhere else, and 10 margin account is if I have -- if I borrow money in my 11 stock. Cash account is if I bring money or if I sell 12 my stock, if I start to do trades, which I never intend 13 to do that.</p> <p>14 Q Did Mr. Daniels tell you what a cash account 15 was or is this just your understanding?</p> <p>16 A Pardon me?</p> <p>17 Q Did Mr. Daniels tell you what a cash account 18 was at WAM?</p> <p>19 A I don't remember exactly.</p> <p>20 Q Did you ever receive any money from your WAM 21 account?</p> <p>22 A Never.</p> <p>23 Q Let's look at page 8.</p> <p>24 MR. NORK: You're still on page 8?</p>	<p style="text-align: right;">Page 211</p> <p>1 MR. ANDERSON: Yes.</p> <p>2 BY MR. ANDERSON:</p> <p>3 Q Actually I apologize. Turn to page 9, please. 4 Would you turn to page 9.</p> <p>5 A Nine?</p> <p>6 Q Nine.</p> <p>7 A Yes.</p> <p>8 Q Now, page 9 at the top asks you to supply a 9 user name and password for on-line access. Do you see 10 that?</p> <p>11 A Yes.</p> <p>12 Q You didn't fill that out, did you?</p> <p>13 A No.</p> <p>14 Q Why not?</p> <p>15 A Because they never have on-line platform.</p> <p>16 Q Did Mr. Daniels ask you to provide a user name 17 and password?</p> <p>18 A They have to give me the user name and 19 password, but they never have the platform to get the 20 ID. They was working on it.</p> <p>21 Q Okay. Mr. Daniels told you that the on-line 22 platform was not ready?</p> <p>23 A Exactly.</p> <p>24 Q So I don't see a user name and password here.</p>
<p style="text-align: right;">Page 212</p> <p>1 Did WAM ever provide you with a user name and password?</p> <p>2 A Never, because they never have platform.</p> <p>3 Q They never sent you an email or sent you a 4 letter or anything with a user name and password?</p> <p>5 A No.</p> <p>6 Q Now, if you look at the last page of Exhibit 2, 7 that's your signature; correct?</p> <p>8 A Correct.</p> <p>9 Q And do you see down below there's an internal 10 section?</p> <p>11 A Yes.</p> <p>12 Q Okay. Did Mr. Daniels or anyone else from WAM 13 at the time you submitted this application say anything 14 about when they expected to either approve or not 15 approve it?</p> <p>16 A My understanding -- I believe that he says over 17 the next few days.</p> <p>18 Q And did they provide you with a copy of what 19 you submitted to them that day?</p> <p>20 A No.</p> <p>21 Q This appears to have been approved on October 22 13th of 2011. Is that right?</p> <p>23 A Yes.</p> <p>24 Q Okay. Who signed that on behalf of Weiser</p>	<p style="text-align: right;">Page 213</p> <p>1 Asset Management?</p> <p>2 A I don't know nothing of these letters on here. 3 I don't know.</p> <p>4 Q When was the first time you saw this document 5 with the internal approval stuff on it?</p> <p>6 A It was again with the discovery papers in 2016.</p> <p>7 Q And were you ever notified of your account 8 number with WAM?</p> <p>9 A Never.</p> <p>10 Q Did you ever receive any account statements 11 from WAM?</p> <p>12 A Never.</p> <p>13 Q Did you ever receive any documentation from 14 WAM?</p> <p>15 A No.</p> <p>16 Q You submitted this application, though?</p> <p>17 A Yes.</p> <p>18 Q And the form that we looked at earlier, the 19 IVF?</p> <p>20 A Yes.</p> <p>21 Q Between May of 2011 when you submitted this and 22 sort of the end of 2012, what did you hear from WAM?</p> <p>23 A Not much. We was discussing from time to time 24 with all the guys, not Howard Daniels, with</p>

<p style="text-align: right;">Page 214</p> <p>1 Mr. Christos Livadas, we discussing the progress, when 2 they're going to get their license, we discuss social 3 things. We discuss things about the company and stuff 4 like that.</p> <p>5 Q Did you ever ask Christos or anyone from WAM, 6 "Hey, what's the status with my application?"</p> <p>7 A I don't exactly remember that, but I always ask 8 how they're doing with their license.</p> <p>9 Q Okay. At some point in time did you become 10 concerned about the legitimacy of WAM?</p> <p>11 A Yes.</p> <p>12 Q What happened?</p> <p>13 A I hear lots of rumors in the street from 14 people, from various common people. In the early days 15 I never believe them. I always trust Christos Livadas. 16 I have no reason to not trust him about the process of 17 the ongoing development of Weiser. But around the end 18 of 2012 I got very suspicious, because I learn 19 Mr. Howard Daniels is not there anymore. And I learn 20 also a guy by the name Charles Oddie, which he's 21 supposed to the internal controller specialist and 22 expert from London, UK, he's left Bahamas and Weiser. 23 Both left, Mr. Howard Daniels and Mr. Charles Oddie. 24 So I figure out as soon as those two guys they left</p>	<p style="text-align: right;">Page 215</p> <p>1 Bahamas. And here we're talking about -- it was very 2 difficult for me to verify that, because I can't find 3 anymore Howard Daniels. I ask Christos where is those 4 guys. And Christos told me they put complaint with the 5 Bahamas Securities and Exchange Commission, but don't 6 worry, Tom, things are going to be fine, because I'm 7 going to put one million dollars in bond and I'm going 8 to get my license. I can't believe Christos. I can't 9 believe Christos to a point. That's about it for now.</p> <p>10 Q Okay. Did you have a conversation with Leo 11 Soursos around this time?</p> <p>12 A Yes, the same time, the end of 2012. I don't 13 remember exactly if I call him or he's call me. And I 14 was working in Athens downtown and I asked Christos 15 what happened with my certificate. I never care really 16 much about my account, because I never have active 17 account or anything. I say to Leo, "Where is my 18 certificate?"</p> <p>19 He says, "You have to ask Christos."</p> <p>20 And then I got more suspicious and worry.</p> <p>21 Q Was Leo affiliated with WAM?</p> <p>22 A I believe Christos invite Leo from Vancouver. 23 Leo was a broker in Vancouver, a retiree or lost his 24 license, something like that. He invites him down to</p>
<p style="text-align: right;">Page 216</p> <p>1 Bahamas to be his primary broker and trading personnel 2 in his institution there.</p> <p>3 Q So at the time you talked to Leo he was with 4 WAM?</p> <p>5 A I believe so, yes.</p> <p>6 Q Okay. And Mr. Livadas told you not to worry?</p> <p>7 A Always.</p> <p>8 Q But you became worried?</p> <p>9 A I start to worry. Since my wife figure out 10 what's going on, I have to start to worry.</p> <p>11 Q What happened with your wife?</p> <p>12 A Well, my wife, she says she want to have a 13 divorce for that because I never listen to her. She's 14 known Christos probably better than me because they're 15 from the same city. And also she's a psychologist. So 16 I have to revise my thinking about Weiser and all the 17 people down there.</p> <p>18 Q So sort of a combination of these factors led 19 you to do something; correct?</p> <p>20 A Yes.</p> <p>21 Q And tell us what you did.</p> <p>22 A Well, I never receive statements. I hear all 23 these rumors around. The statements was very 24 important, very, very important. Everyone gets</p>	<p style="text-align: right;">Page 217</p> <p>1 statements. Even if you have an account in United 2 States for one dollar or 50 cents, you get monthly 3 statements. I never see statements. I hear all these 4 rumors.</p> <p>5 And then I start preparing for my heart surgery in 6 the spring of 2015, so I have to put my legal documents 7 together for my family's trust.</p> <p>8 Q Okay. In 2012 did you withdraw any money from 9 a WAM account?</p> <p>10 A Never. I can't draw money because there was no 11 account. My certificate was sitting in the safety box.</p> <p>12 Q And I guess would the answer be the same if I 13 asked if you ever directed Christos Livadas to withdraw 14 money in 2012 from your WAM account?</p> <p>15 A Of course. I never instruct Christos.</p> <p>16 Q You never instructed Christos to deal on a WAM 17 account?</p> <p>18 A Never.</p> <p>19 Q And you're saying a WAM account was never even 20 opened to your knowledge?</p> <p>21 A Never. Never.</p> <p>22 Q So let's look at Exhibit 13, please.</p> <p>23 A Thirteen, yes.</p> <p>24 Q What is this document?</p>

<p style="text-align: right;">Page 218</p> <p>1 A This is the indemnity for the lost certificate.</p> <p>2 Q Okay. And you caused this to be created?</p> <p>3 A Yes.</p> <p>4 Q Who created it?</p> <p>5 A This has been created by the securities lawyer</p> <p>6 of the company and been signed by myself and verified</p> <p>7 my signature by Professor Chrisdias, the IT lawyer of</p> <p>8 Anavex Life Science.</p> <p>9 Q And you did this document to sort of start the</p> <p>10 process of canceling your certificates that were on</p> <p>11 deposit at WAM?</p> <p>12 A Yes.</p> <p>13 Q Okay. Or I should say left at WAM; correct?</p> <p>14 A Yes.</p> <p>15 Q Look at Exhibit 14, please. What is this</p> <p>16 document?</p> <p>17 A This is affidavit for lost stock certificate.</p> <p>18 Q And who created the form for this?</p> <p>19 A The securities lawyer of the company.</p> <p>20 Q Okay. Of Anavex?</p> <p>21 A Yes.</p> <p>22 Q And is that your handwriting on it?</p> <p>23 A Yes.</p> <p>24 Q And on the second page whose signature is that</p>	<p style="text-align: right;">Page 219</p> <p>1 at the top?</p> <p>2 A It's my signature.</p> <p>3 Q Okay. And what is that at the bottom?</p> <p>4 A The bottom is certification of my signature</p> <p>5 from Professor Chrisdias.</p> <p>6 THE COURT: And you've now referred to Professor</p> <p>7 Chrisdias on a number of occasions and then you said</p> <p>8 he's the lawyer for Anavex.</p> <p>9 THE WITNESS: Yes.</p> <p>10 THE COURT: So do you refer to lawyers in Greece as</p> <p>11 professors?</p> <p>12 THE WITNESS: Yes.</p> <p>13 THE COURT: Okay. Thank you.</p> <p>14 BY MR. ANDERSON:</p> <p>15 Q So the lawyer for Anavex was notarizing this?</p> <p>16 A Yes.</p> <p>17 Q This is dated March 28th, 2013; correct?</p> <p>18 A Yes.</p> <p>19 Q And the exhibit we looked at previously was in</p> <p>20 January; correct?</p> <p>21 A Um-hum. Yes.</p> <p>22 Q Why was there a delay between the two?</p> <p>23 A I start the process in January and I complete</p> <p>24 it sometime in March, I believe.</p>
<p style="text-align: right;">Page 220</p> <p>1 Q Okay. Is that something that just takes that</p> <p>2 long?</p> <p>3 A No, I think it takes one day, but I was</p> <p>4 preparing for my heart surgery at the same time and</p> <p>5 difficulty of the lawyer. He's got an office in</p> <p>6 Athens, an office in Paris in France. That's why I</p> <p>7 call him professor, because he's half in France and it</p> <p>8 confuses me all the time, doctor or Ph.D. or professor.</p> <p>9 So probably it was difficulty of finding the lawyer.</p> <p>10 At the same time I was trying to find out what's going</p> <p>11 on with Weiser. But all that kind of stuff is five</p> <p>12 percent of my time at that time. The most important</p> <p>13 was the preparation for my hospitalization.</p> <p>14 Q You had a lot of things going on?</p> <p>15 A I have to have some tests before I go for the</p> <p>16 operation.</p> <p>17 Q If you look at Exhibit 14, paragraph 5, you're</p> <p>18 stating under oath that the present status of the</p> <p>19 certificate is as follows. "Please describe, i.e.,</p> <p>20 lost misplaced or stolen."</p> <p>21 And you wrote "lost"; correct?</p> <p>22 A Yes, correct.</p> <p>23 Q Why did you write that?</p> <p>24 A Because the paper gives me three options, lost,</p>	<p style="text-align: right;">Page 221</p> <p>1 misplace it or stolen. I discussed it with the</p> <p>2 attorney there and we figure out I never misplace it,</p> <p>3 because I know where it was. Nobody stole it from me.</p> <p>4 The people from Weiser, they never stole it from me. I</p> <p>5 left them there, but I lost track of that. That's why</p> <p>6 we figure out that I should go lost.</p> <p>7 Q Well, you heard Mr. Livadas's testimony</p> <p>8 yesterday that the certificates are exactly where you</p> <p>9 left them.</p> <p>10 A He says that.</p> <p>11 Q Okay. You didn't know -- well, strike that.</p> <p>12 They weren't really lost, because you knew where they</p> <p>13 were; correct?</p> <p>14 A How can I know it? It was impossible for me to</p> <p>15 know it, because I never receive statement. They used</p> <p>16 to tell me, "Don't worry, Tom. Your certificates in</p> <p>17 the safety box," but I never see them after I left. I</p> <p>18 see them last time I hand them to them. This is a</p> <p>19 physical certificate. And in order for me to keep</p> <p>20 track, it has to be deposited in an account, the</p> <p>21 account has to be opened and I have to receive</p> <p>22 statement.</p> <p>23 Q And you hadn't heard from WAM?</p> <p>24 A From Howard Daniels I never hear. I was</p>

<p style="text-align: right;">Page 222</p> <p>1 talking only with Mr. Livadas.</p> <p>2 Q And did you trust Mr. Livadas with respect to</p> <p>3 WAM?</p> <p>4 A I believed him at that point, yes.</p> <p>5 Q Well, then why did you cancel the certificate?</p> <p>6 A Oh, I'm sorry. I'm sorry. In this time when I</p> <p>7 start the process I lost a little bit of faith in</p> <p>8 Christos Livadas.</p> <p>9 Q Okay. And if you look at Exhibit 15 --</p> <p>10 A Yes.</p> <p>11 Q -- you also caused this document to be</p> <p>12 submitted to NATCO; correct?</p> <p>13 A Yes, correct.</p> <p>14 Q And again you checked lost rather than stolen</p> <p>15 or destroyed; correct?</p> <p>16 A Yes.</p> <p>17 Q Is lost the closest description you thought was</p> <p>18 applicable to your situation?</p> <p>19 A Yes.</p> <p>20 Q And then if you look at Exhibit 16 --</p> <p>21 A Yes.</p> <p>22 Q -- it looks like this is the document</p> <p>23 evidencing that NATCO had canceled the old certificate</p> <p>24 that you left with Weiser and issued a new Certificate</p>	<p style="text-align: right;">Page 223</p> <p>1 975?</p> <p>2 A Yes.</p> <p>3 Q Okay. Now, it's a new certificate number, but</p> <p>4 the shares that are being represented by Certificate</p> <p>5 975 are the same shares that existed under 753;</p> <p>6 correct?</p> <p>7 MR. NORK: Objection. Leading.</p> <p>8 THE COURT: Sustained.</p> <p>9 BY MR. ANDERSON:</p> <p>10 Q Are the shares that are represented by</p> <p>11 Certificate 975 different than your other Certificate</p> <p>12 753? Do you understand the question?</p> <p>13 A Yes. I think it's a little bit more, because</p> <p>14 the two lost, they become one, I believe, if I can see</p> <p>15 correct here.</p> <p>16 Q Okay. If I understand you, the two shares --</p> <p>17 A The two certificates, they become one, plus</p> <p>18 92,000. They both was claimed lost. So the new one is</p> <p>19 for 6 million .725.</p> <p>20 Q Okay. Are those the same shares?</p> <p>21 A Yes, yes.</p> <p>22 Q Now, you mentioned -- well, strike that.</p> <p>23 Did you ever tell Christos or WAM that you had</p> <p>24 canceled the certificates?</p>
<p style="text-align: right;">Page 224</p> <p>1 A No.</p> <p>2 Q Why not?</p> <p>3 A I never have to.</p> <p>4 Q Why don't you believe you had to?</p> <p>5 A I believe I got a little bit freaking out by</p> <p>6 the time I never receive the statements and all these</p> <p>7 rumors, so I felt they can't use me and use my</p> <p>8 certificates for unknown purpose. So I felt I don't</p> <p>9 have to tell them anymore nothing. I was not</p> <p>10 obligated.</p> <p>11 Q In May of 2013 you mentioned a heart surgery.</p> <p>12 Would you tell the Court just a little bit about what</p> <p>13 that involved.</p> <p>14 A It was heart surgery. My three arteries -- my</p> <p>15 four arteries was blocked 90 percent, so I left with</p> <p>16 35 percent of my heart working right now.</p> <p>17 Q So it was a pretty major surgery?</p> <p>18 A Nine and a half hours.</p> <p>19 Q Was it possible that you might not make it?</p> <p>20 A Fifty-fifty.</p> <p>21 Q And just prior to your surgery did something</p> <p>22 happen at Anavex that caused you additional concern?</p> <p>23 A Of course.</p> <p>24 Q Please tell us about that.</p>	<p style="text-align: right;">Page 225</p> <p>1 A In January of 2013 the last --</p> <p>2 Q I'm sorry. 2013?</p> <p>3 A -- 2013, one, three, two of the last directors</p> <p>4 of the company, they resign in one day and the company</p> <p>5 was left with no board of directors. Both of those</p> <p>6 directors, they was very good friends with Mr. Christos</p> <p>7 Livadas. One of them he left and he's gone to work for</p> <p>8 Weiser in Bahamas, Mr. Sean Lowry or something like</p> <p>9 that.</p> <p>10 Q Okay. Did that create additional stress on</p> <p>11 you?</p> <p>12 A One thousand percent, one thousand percent,</p> <p>13 because the company now, it's a publicly traded company</p> <p>14 and it has no board of directors.</p> <p>15 THE COURT: When in 2013 was this?</p> <p>16 THE WITNESS: In January.</p> <p>17 THE COURT: January?</p> <p>18 THE WITNESS: Yes. So securities lawyers,</p> <p>19 Securities and Exchange Commission, SEC, from U.S.,</p> <p>20 they was calling me to see what is going on with the</p> <p>21 company. They was ready to delist the company from</p> <p>22 the --</p> <p>23 (The court reporter requested clarification.)</p> <p>24 /////</p>

<p style="text-align: right;">Page 226</p> <p>1 BY MR. ANDERSON:</p> <p>2 Q Delist; correct?</p> <p>3 A Delist. So I was advised from the securities</p> <p>4 lawyers to become a director and president in order for</p> <p>5 the company to continue to be trading.</p> <p>6 Q And so you did that?</p> <p>7 A Yes.</p> <p>8 Q You became a director?</p> <p>9 A I have to.</p> <p>10 Q Now, how long were you hospitalized for your</p> <p>11 surgery?</p> <p>12 A Inside of the hospital I was for two weeks.</p> <p>13 Q And what time period was that?</p> <p>14 A This was in Easter of 2013. That was late --</p> <p>15 fourth week of April of 2013 and then first week of</p> <p>16 May, I believe, of 2013.</p> <p>17 Q Okay. Prior to your surgery did you ever give</p> <p>18 Christos Livadas direction to attempt to sell any of</p> <p>19 your stock?</p> <p>20 A You say prior? What exactly --</p> <p>21 Q We looked at the 2007 transaction earlier.</p> <p>22 A Yes.</p> <p>23 Q I'm talking about in the timeframe of 2011, '12</p> <p>24 and '13, did you ever give Christos Livadas direction</p>	<p style="text-align: right;">Page 227</p> <p>1 to sell any of your Anavex stock?</p> <p>2 A Never.</p> <p>3 Q 2011, '12 and '13, did you ever give WAM any</p> <p>4 direction to sell your stock?</p> <p>5 A Never, because I never have an account with</p> <p>6 them. My account never was opened.</p> <p>7 Q Prior to -- I'm sorry. In 2011, '12 and '13</p> <p>8 did you give Weiser Capital any direction to sell your</p> <p>9 Anavex stock?</p> <p>10 A I never know Weiser Capital.</p> <p>11 Q Now, you were hospitalized for two weeks. Can</p> <p>12 you just briefly describe for the Court your recovery</p> <p>13 process?</p> <p>14 A It was very long process. I was lucky, because</p> <p>15 my house was right next door to the hospital, one block</p> <p>16 away, so that's why the doctors, they let me go home</p> <p>17 for better environment with my family. I have my</p> <p>18 mental abilities one hundred percent, but my kinetics,</p> <p>19 it was in a very bad situation. It takes me about one</p> <p>20 month to walk again. It takes me two, three months to</p> <p>21 start driving, three months plus. And full recovery, I</p> <p>22 never have full recovery even today. I have to be</p> <p>23 careful all the time.</p> <p>24 Q During your recovery period did you have</p>
<p style="text-align: right;">Page 228</p> <p>1 someone help you monitor your emails?</p> <p>2 A Usually my wife is always with me and my</p> <p>3 daughter. If I have an email, they probably bring me</p> <p>4 my device close to me the time I was totally in bed.</p> <p>5 And sometimes my little cousin, my young cousin,</p> <p>6 Lambros, if he was in the house, or my brothers if they</p> <p>7 was in the house. Somebody always help me the first</p> <p>8 little while.</p> <p>9 Q So for a period of time after your surgery</p> <p>10 Lambros reviewed some of your emails to help you?</p> <p>11 A Yes.</p> <p>12 Q Okay. Now, did there come a point in time</p> <p>13 after your surgery that you were discussing or</p> <p>14 considering selling some of your Anavex stock?</p> <p>15 A Yes.</p> <p>16 Q Okay. When was that?</p> <p>17 A It was in the summer of 2013 after I got out</p> <p>18 from the hospital.</p> <p>19 Q Okay. And prior to your hospitalization you</p> <p>20 had never discussed or directed anyone to sell your</p> <p>21 Anavex stock?</p> <p>22 A Never, no.</p> <p>23 Q Who brought up the prospect of selling your</p> <p>24 stock?</p>	<p style="text-align: right;">Page 229</p> <p>1 A Probably lots of people, including Christos.</p> <p>2 MR. NORK: Objection. Calls for speculation.</p> <p>3 THE COURT: I'll overrule the objection. He has</p> <p>4 indicated that Mr. Livadas did. He said lots of</p> <p>5 people, but I'm not identifying who those people</p> <p>6 are. Did you discuss it with Mr. Livadas?</p> <p>7 THE WITNESS: Yes.</p> <p>8 THE COURT: Okay. So clarify that. Go ahead.</p> <p>9 BY MR. ANDERSON:</p> <p>10 Q And what did Mr. Livadas say about selling your</p> <p>11 stock in June or July of 2013?</p> <p>12 A First thing he says, "Tom, you like your life.</p> <p>13 Life is too short. You have a lot of stock. You</p> <p>14 should sell some, because you're lucky you're here</p> <p>15 today. You could be dead a month ago."</p> <p>16 So they tried to convince me, probably Christos</p> <p>17 most, most of the time Christos, to sell a portion of</p> <p>18 my position to the strategic Chinese investors he's met</p> <p>19 in Hong Kong.</p> <p>20 Q And what did you understand by strategic</p> <p>21 Chinese investor or just a strategic investor?</p> <p>22 A Strategic Chinese investor from Hong Kong, it's</p> <p>23 specifically the big individuals, they move to North</p> <p>24 America and they have to invest in North American</p>

<p style="text-align: right;">Page 230</p> <p>1 companies or properties in order to get their license 2 or something. That's what he told me. Or whatever. 3 Probably he's met some people in China or Hong Kong. 4 But I remember he says Chinese investors. 5 Q Okay. And was it your understanding that these 6 investors were just going to buy your stock? 7 A They going to -- yes, if they put the money 8 they can buy my stock. 9 Q All right. You understood -- did you 10 understand that they were also going to invest in the 11 company? 12 A Yes, yes. 13 Q Okay. And how was the company doing at that 14 point in time in June or July of 2013? 15 A In very bad situation. 16 Q Tell us about that. 17 A The company needed desperately to raise funds 18 through private placements, not by me selling the 19 stock. If I sold my stock the money was going to my 20 bank account if I have any money. Usually the 21 companies that trade publicly, there is funds through 22 bankers, through broker-dealers, through financial 23 institution and then by selling their stock. Private 24 placements they call it.</p>	<p style="text-align: right;">Page 231</p> <p>1 Q And did Mr. Livadas say anything about your -- 2 the size of your holdings being an impediment to a 3 sale? 4 A We was discussing for half of my holdings, like 5 3.3 million shares. 6 Q Did you ever discuss with him selling your 7 entire position? 8 A No. 9 Q Okay. And did you have a belief as to what a 10 strategic investor might be able to do for the company? 11 A Strategic investor could do a lot of stuff for 12 the company, finance the company, help the company to 13 do collaborations with the big pharmaceutical companies 14 in our case. This was my understanding. Bring value. 15 Q So if I understand you, it wasn't just about 16 selling stock, it was about selling stock to the right 17 person? 18 A The right person for value of the company. 19 Q At any time did you give Weiser Asset 20 Management a standing order to sell your stock? 21 A Never. 22 Q At any time did you give Christos Livadas a 23 standing order to sell your stock? 24 A Never.</p>
<p style="text-align: right;">Page 232</p> <p>1 Q Well, you heard Mr. Livadas testify I think 2 yesterday that he had sort of a standing order to sell 3 your stock and if a buyer came up it was just sold. 4 Did you hear that testimony? 5 A Yes. 6 Q Do you agree with that? 7 A He's a liar. 8 Q Well, my question was only do you agree with 9 that? 10 A No. 11 THE COURT: Mr. Skarpelos, just so you know, you 12 can't refer to somebody in court as a liar. You can 13 testify whether or not something is true or not true or 14 accurate or inaccurate, but you're not supposed to 15 basically call other people a liar. Okay? 16 THE WITNESS: My apologies. 17 THE COURT: I mean, from this point forward just 18 keep that in mind. 19 THE WITNESS: My apologies. 20 THE COURT: That's okay. 21 BY MR. ANDERSON: 22 Q So we want to keep everything civil and 23 respectful here in front of the judge in court. 24 A Yes.</p>	<p style="text-align: right;">Page 233</p> <p>1 Q Let me ask you this. Are you emotional about 2 this situation? 3 A Actually I'm very excited we're here today. 4 Q You want to get this thing done? 5 A I wait for three years. 6 Q But you disagree with a lot of what Mr. Livadas 7 said yesterday? 8 A Yesterday I disagree with 99.9 percent. 9 Q Okay. Let's not call him names though. If I 10 ask you a question and say do you disagree, you can say 11 yes. 12 A Yes. 13 Q So how much of your position were you willing 14 to sell in June and July? 15 A Half of the position, 3.3, the half exactly. 16 Q And at what price? 17 A We was -- they tried to convince me for quarter 18 of a million dollars, 3.3 million, just half of the 19 shares, to the strategic investor for quarter of a 20 million dollars. And I figure quarter of a million 21 dollars, it's lots of money. It's a lot of money. In 22 the situation I was. Plus it's going to bring value to 23 the transaction by finding the right strategic 24 investor. So this investor could help the company to</p>

<p style="text-align: right;">Page 234</p> <p>1 raise funds, help me to find -- to do more stuff for</p> <p>2 the company, developing the company.</p> <p>3 Q So you did agree that you would sell 3.3</p> <p>4 million shares for \$250,000 for the right buyer?</p> <p>5 A Exactly.</p> <p>6 Q And, again, these are restricted shares?</p> <p>7 A Restricted shares, yes.</p> <p>8 Q Did you ask Lambros to help you in the process</p> <p>9 of dealing with this possible sale?</p> <p>10 A Lambros was only as a secretarial helping with</p> <p>11 translations and stuff like that.</p> <p>12 Q Okay. There are a number of emails that were</p> <p>13 shown to Mr. Livadas yesterday, and I think you've seen</p> <p>14 them in deposition.</p> <p>15 A Yes.</p> <p>16 Q You weren't directly involved in those emails;</p> <p>17 correct?</p> <p>18 A I wasn't directly involved, yes.</p> <p>19 Q But Lambros told you in general what was</p> <p>20 happening in his exchanges with Mr. Livadas?</p> <p>21 A Most of the times Lambros was in my house.</p> <p>22 Q Okay. So he kept you informed?</p> <p>23 A All the time.</p> <p>24 Q We've seen the word Kinezi in this proceeding.</p>	<p style="text-align: right;">Page 235</p> <p>1 And heard it.</p> <p>2 A Yes.</p> <p>3 Q What is Kinezi?</p> <p>4 A It means Chinese in Greek language.</p> <p>5 Q And is that the Chinese strategic investors</p> <p>6 that you were talking about?</p> <p>7 A Yes.</p> <p>8 Q Would you look at Exhibit 25, please.</p> <p>9 A Yes.</p> <p>10 Q Exhibit 25 is an email exchange between -- it</p> <p>11 looks like two emails sent from Lambros to Christos;</p> <p>12 correct?</p> <p>13 A Correct.</p> <p>14 Q And there's some documents attached to that</p> <p>15 email. Do you see those?</p> <p>16 A The documents behind?</p> <p>17 Q Yes.</p> <p>18 A Yes, I see them.</p> <p>19 Q Okay. You've seen these forms?</p> <p>20 A Yes, yes.</p> <p>21 Q One is a blank power of attorney and the second</p> <p>22 is a Stock Sale and Purchase Agreement that has some</p> <p>23 names on it. Do you recognize any of those names?</p> <p>24 A No.</p>
<p style="text-align: right;">Page 236</p> <p>1 Q Okay. What are these documents?</p> <p>2 A Those was samples, like probably -- the power</p> <p>3 of attorney, it's power of attorney to be used in the</p> <p>4 industry. It's very normal. The other thing looks</p> <p>5 like it's the Stock Sale and Purchase Agreement. It's</p> <p>6 one of those you can find them in Google, in the</p> <p>7 internet without involving any lawyer to draw so you</p> <p>8 don't spend money. So it looks like Lambros and</p> <p>9 Christos was finding things on the internet for free</p> <p>10 and it was back and forth.</p> <p>11 Q Well, who would want to spend money on a</p> <p>12 lawyer? I'm just kidding.</p> <p>13 THE COURT: Rhetorical.</p> <p>14 MR. ANDERSON: It's a rhetorical question.</p> <p>15 MR. NORK: But it's on the record.</p> <p>16 BY MR. ANDERSON:</p> <p>17 Q So if you look at Christos' email in this</p> <p>18 exchange on Exhibit --</p> <p>19 THE COURT: Could you guys do me a favor as you go</p> <p>20 forward? It gets very -- it's not confusing in my</p> <p>21 mind, but I don't think we create a really good record</p> <p>22 when we're referring to people by two different names.</p> <p>23 So if you're going to talk about Mr. Livadas, just call</p> <p>24 him Mr. Livadas --</p>	<p style="text-align: right;">Page 237</p> <p>1 MR. ANDERSON: I apologize.</p> <p>2 THE COURT: -- as opposed to saying Christos.</p> <p>3 We've uniformly called him Lambros because it's easier</p> <p>4 then using his last name which is much longer. So</p> <p>5 we'll just call them Mr. Livadas and Lambros. How's</p> <p>6 that? If you could.</p> <p>7 MR. ANDERSON: That's perfectly fine, Your Honor.</p> <p>8 THE COURT: I'm just going through and making notes</p> <p>9 and I'm always kind of having to tweak them a little</p> <p>10 bit. So let's just make sure we do that.</p> <p>11 MR. ANDERSON: I understand.</p> <p>12 THE COURT: So if I understand your testimony</p> <p>13 correctly, Mr. Skarpelos, you believe that Lambros and</p> <p>14 Mr. Livadas somehow came up with these two blank forms,</p> <p>15 the power of attorney form and the purchase and sale</p> <p>16 agreement?</p> <p>17 THE WITNESS: Yes.</p> <p>18 THE COURT: Okay. So let's go from there.</p> <p>19 MR. ANDERSON: Thank you, Your Honor.</p> <p>20 THE COURT: Thank you.</p> <p>21 BY MR. ANDERSON:</p> <p>22 Q Now, in follow up to the Court's question, do</p> <p>23 you believe that Lambros or Mr. Livadas drafted either</p> <p>24 of these documents?</p>

<p style="text-align: right;">Page 238</p> <p>1 A I don't believe so.</p> <p>2 Q Okay. You think that one or the other or both</p> <p>3 of them found it on the internet?</p> <p>4 A Yes.</p> <p>5 Q Okay. Now, if you look at the first page of</p> <p>6 Exhibit 25, there is an email from Mr. Livadas kind of</p> <p>7 right in the middle there where he wrote, "Email me</p> <p>8 blank ones now so I can show them what they'll be</p> <p>9 looking at." Do you see that?</p> <p>10 A Yes.</p> <p>11 Q Okay. And did Lambros share this email with</p> <p>12 you or the contents?</p> <p>13 A Yes.</p> <p>14 Q Did you have an understanding of what</p> <p>15 Mr. Livadas. Meant by "blank ones"?</p> <p>16 A Yes, of course.</p> <p>17 Q Okay. Tell us about that.</p> <p>18 A Again, this is selective emails on behalf of</p> <p>19 Mr. Livadas. My understanding for this specific email</p> <p>20 is blank like an empty one with my signature on it,</p> <p>21 notarize it, every word, so he can show to the Chinese</p> <p>22 investors, because I believe at that time he was in</p> <p>23 Hong Kong. So he told us that Chinese investors from</p> <p>24 Hong Kong, they always like to see how is this document</p>	<p style="text-align: right;">Page 239</p> <p>1 with my signature and everything because I'm in Greece.</p> <p>2 So that was my understanding. That's why they convince</p> <p>3 me to go to the office there, the city code office, and</p> <p>4 notarize these documents. My understanding was they're</p> <p>5 going to be used as samples. The originals I have in</p> <p>6 my briefcase here in the court.</p> <p>7 Q Did Mr. Livadas ever mention around this time</p> <p>8 that these documents are going back and forth that WAM</p> <p>9 would be the buyer of the stock?</p> <p>10 A Never.</p> <p>11 Q Did Mr. Livadas ever mention during this time</p> <p>12 that Weiser Capital would be the buyer?</p> <p>13 A Never.</p> <p>14 Q Did Mr. Livadas mention that either WAM or</p> <p>15 Weiser Capital would be an intermediary?</p> <p>16 A Yes.</p> <p>17 Q He said --</p> <p>18 A He says Weiser -- I don't remember exactly now</p> <p>19 which Weiser, because I'm confused with all these</p> <p>20 Weisers and Mr. Livadas. So Weiser, let's say Weiser</p> <p>21 or him.</p> <p>22 Q Well, let me stop you for a second. I think</p> <p>23 you testified earlier that you didn't hear of Weiser</p> <p>24 Capital until this lawsuit.</p>
<p style="text-align: right;">Page 240</p> <p>1 A I'm confused with all these Weisers, so you</p> <p>2 have to go slow with the Weisers here. I'm sorry,</p> <p>3 but --</p> <p>4 Q Let me slow down.</p> <p>5 A Yes.</p> <p>6 Q During this email exchange that's taking place</p> <p>7 and these conversations taking place in July or June of</p> <p>8 2013, was there any discussion that Mr. Livadas or any</p> <p>9 of his entities that he was affiliated with would act</p> <p>10 as an intermediary buyer in this transaction?</p> <p>11 A No.</p> <p>12 Q Okay. So you signed these blank documents to</p> <p>13 send as a sample; correct?</p> <p>14 A Yes.</p> <p>15 Q Okay. Let's look at Exhibit -- let's look at</p> <p>16 Exhibit 34, please.</p> <p>17 A Yes.</p> <p>18 Q Now, is this the blank sample that you signed?</p> <p>19 A Yes.</p> <p>20 Q Okay. And you asked Lambros to deliver it to</p> <p>21 Mr. Livadas for the purpose you discussed?</p> <p>22 A Email it.</p> <p>23 Q Okay.</p> <p>24 MR. NORK: I'm sorry. What was that last part?</p>	<p style="text-align: right;">Page 241</p> <p>1 THE WITNESS: Email it. Just email it.</p> <p>2 THE COURT: Email.</p> <p>3 THE WITNESS: The original I have here in my</p> <p>4 briefcase.</p> <p>5 BY MR. ANDERSON:</p> <p>6 Q Okay. That was going to be my question down</p> <p>7 the line a little bit and we'll talk about that. You</p> <p>8 asked Lambros to email a copy to Mr. Livadas?</p> <p>9 A Yes.</p> <p>10 Q And there's no buyer identified in this blank</p> <p>11 document you signed?</p> <p>12 A No, because it was again in a very preliminary</p> <p>13 stage, the whole discussion. So this was being sent.</p> <p>14 I know I done a big mistake to send this document with</p> <p>15 my signature. I learned my mistake very well. And I</p> <p>16 never going to do it again, but at that time I trust</p> <p>17 Mr. Livadas and I send him a sample.</p> <p>18 Q Well, let me clarify, because you testified</p> <p>19 earlier that you canceled your stock certificate</p> <p>20 because in part you had lost a little faith in</p> <p>21 Mr. Livadas.</p> <p>22 A Yes.</p> <p>23 Q And so six months later you're working with him</p> <p>24 again. Can you explain that to the Court, please?</p>

<p style="text-align: right;">Page 242</p> <p>1 A Yes. Yes. I was disgusted in the very early 2 stage. That's why I never got involved my lawyers in 3 this situation. So I say to myself after he convinced 4 me let's forget the first incident. I never blame 5 Christos Livadas one hundred percent. Like I was not 6 sure Christos Livadas was the one to blame for the 7 incident of 2007, correct.Christos remained my friend. 8 And I kind of listen to him, but I was very carefully 9 with my understanding and I never put nothing more 10 except just the sample, I prepare the sample, email it 11 to him and nothing more. I never thought at that point 12 this is going to be dangerous.</p> <p>13 Q You mentioned just a few seconds ago you didn't 14 involve your lawyers. What do you mean by that?</p> <p>15 A In order for this thing to be completed, 16 definitely I would involve the securities lawyer to 17 prepare all of the documents to go together with the 18 sales agreement, the power of attorney. It's six, 19 seven documents together. Otherwise notarization 20 didn't happen, because again like I explain I'm the 21 insider of the company.</p> <p>22 Q Who was your securities lawyer that you were 23 referring to?</p> <p>24 A Clark & Wilson from Vancouver, Canada, at that</p>	<p style="text-align: right;">Page 243</p> <p>1 time.</p> <p>2 Q Is there a particular attorney?</p> <p>3 A Yes, it's Mr. Bernard Pinsky.</p> <p>4 THE COURT: Pinsky?</p> <p>5 THE WITNESS: Pinsky.</p> <p>6 THE COURT: Pinsky. Thank you.</p> <p>7 BY MR. ANDERSON:</p> <p>8 Q P-i-n-s-k-y?</p> <p>9 A P-i-n-s-k-y, Pinsky.</p> <p>10 Q This Stock Purchase and Sale Agreement that you 11 signed, does it reference any earlier payment or 12 transaction that you supposedly got a benefit from?</p> <p>13 A Nothing.</p> <p>14 Q Did Mr. Livadas at the time that you guys were 15 discussing this possible sale, did he say anything 16 about a prior transaction in April?</p> <p>17 A Nothing.</p> <p>18 Q Okay. When was the first time that you learned 19 about an alleged April 2nd, 2013, transaction?</p> <p>20 A In the complaint. In the complaint at the 21 start of this issue.</p> <p>22 Q After the lawsuit?</p> <p>23 A Yes, yes.</p> <p>24 Q Would you look at Exhibit 36, please.</p>
<p style="text-align: right;">Page 244</p> <p>1 A Yes.</p> <p>2 Q Now, is this the stock power that you caused to 3 be signed and sent to Mr. Livadas?</p> <p>4 A Yes.</p> <p>5 Q And again you sent this as an example?</p> <p>6 A Yes.</p> <p>7 Q Or as a sample for him to show the Chinese?</p> <p>8 A Yes, because I was asked by Mr. Livadas.</p> <p>9 Q Did Mr. Livadas say why they needed to be 10 notarized at that time?</p> <p>11 A That's the whole purpose of the sample. It 12 goes to the Chinese investors to see my signature and 13 the notarization so they can see if it's okay to go 14 ahead and pursue, which it's not the case, because 15 usually they need the medallion signature.</p> <p>16 THE COURT: What is that?</p> <p>17 THE WITNESS: That is a signature honored by a bank 18 or financial institution.</p> <p>19 BY MR. ANDERSON:</p> <p>20 Q Slow down.</p> <p>21 A By a bank or financial institution. But 22 because I was living in Greece -- together in the pile 23 of documents you needed a notary. To do anything with 24 my certificates you needed two pieces of ID notarized</p>	<p style="text-align: right;">Page 245</p> <p>1 by an attorney, two pieces ID with photo. All the time 2 I use my passport, my passport. No expired passport. 3 My passport I always have in my pocket. I show to my 4 attorney and I show my Greek ID and my Greek driver's 5 license which they all have my picture on it.All 6 together they have to be stamped. And usually in most 7 cases they put the little -- I don't know how they're 8 called -- little stamp on it that I have to pay cents 9 in order to be verification, because I live in Athens, 10 Greece.</p> <p>11 THE COURT: Oh, like a tax stamp of some sort?</p> <p>12 THE WITNESS: Something like this, yes.</p> <p>13 BY MR. ANDERSON:</p> <p>14 Q So that's the closest thing you can get to a 15 medallion guarantee in Greece?</p> <p>16 A According to NATCO, that's the process I have 17 to do.</p> <p>18 Q Would you look at Exhibit 36. Is that the kind 19 of notary stamp that you just described?</p> <p>20 A No. No.</p> <p>21 Q Okay. What is this? Or how is this different 22 than what you just described?</p> <p>23 A This notary stamp has not very much value 24 outside of having driver's license in Greece or doing</p>

<p style="text-align: right;">Page 246</p> <p>1 some small stuff. It's not authenticated by a</p> <p>2 professional, by an attorney or a banker or</p> <p>3 institution. It's a little office they have for the</p> <p>4 citizens to walk in and have their signature notarized</p> <p>5 right there and stuff like that. It's a low level --</p> <p>6 how can I say what I mean? They're not going to be</p> <p>7 accepting this.</p> <p>8 Q Okay. So as I understand your testimony, this</p> <p>9 notary on page 36 -- I'm sorry -- Exhibit 36 is</p> <p>10 different than the notary that signed Exhibit 14?</p> <p>11 A Yes, of course.</p> <p>12 Q Okay.</p> <p>13 A Big difference.</p> <p>14 Q And why did you have -- well, is it fair to say</p> <p>15 that the notary on page 14 requires a little more level</p> <p>16 of inquiry than the Exhibit 36?</p> <p>17 A Correct.</p> <p>18 Q Okay. And why did you choose to have this</p> <p>19 notary on Exhibit 14 as opposed to the one on Exhibit</p> <p>20 36?</p> <p>21 A Because it was samples. From the samples their</p> <p>22 interest was to see my signature instead of the whole</p> <p>23 document. That's my understanding at that time.</p> <p>24 Q Okay. And so Exhibit 14 which is something</p>	<p style="text-align: right;">Page 247</p> <p>1 you -- did you deliver that to NATCO?</p> <p>2 A Which one?</p> <p>3 Q Exhibit 14.</p> <p>4 A Yes, of course.</p> <p>5 Q The affidavit of lost certificate was delivered</p> <p>6 to NATCO?</p> <p>7 A That's why NATCO issued the certificates to</p> <p>8 myself which I still have it today.</p> <p>9 Q And the other notary on 36, where did you go to</p> <p>10 get that? Is it an attorney's office or --</p> <p>11 A No, no, no. It's a little office. It's</p> <p>12 outside of the city hall. You just walk in the office</p> <p>13 with two secretaries there, you just go there, show</p> <p>14 your ID, they stamp it.</p> <p>15 Q What is K-E-P?</p> <p>16 A KEP.</p> <p>17 Q What is KEP?</p> <p>18 A It's like a center for citizens, something like</p> <p>19 that.</p> <p>20 Q Did WAM ever ask you for a power of attorney at</p> <p>21 any time?</p> <p>22 A Never.</p> <p>23 Q Okay. Did Mr. Livadas ever ask you for a power</p> <p>24 of attorney prior to July -- June or July of 2013?</p>
<p style="text-align: right;">Page 248</p> <p>1 A No.</p> <p>2 Q Did Mr. Livadas say anything to you or to your</p> <p>3 knowledge Lambros in this June or July timeframe about</p> <p>4 the power of attorney form being unrelated to the</p> <p>5 purchase and sale agreement? Do you understand the</p> <p>6 question?</p> <p>7 A No.</p> <p>8 Q Okay. Did you hear Mr. Livadas testify earlier</p> <p>9 today that the power of attorney that Lambros sent him</p> <p>10 was not related to the purchase and sale agreement that</p> <p>11 Lambros sent him?</p> <p>12 A I'm confused.</p> <p>13 Q Okay. If you don't understand it --</p> <p>14 A I understand both these documents they was</p> <p>15 asking for the same purpose, to show to the Chinese</p> <p>16 investor. That was my understanding.</p> <p>17 Q Okay. Thank you.</p> <p>18 THE COURT: But his question was did you hear</p> <p>19 Mr. Livadas say earlier today that they were for</p> <p>20 different reasons. You were present. Did you hear</p> <p>21 that?</p> <p>22 THE WITNESS: Yes, I hear that.</p> <p>23 BY MR. ANDERSON:</p> <p>24 Q Do you agree with him?</p>	<p style="text-align: right;">Page 249</p> <p>1 A No. It's the first time I hear that.</p> <p>2 Q Now, at the time that you signed these blank</p> <p>3 documents and caused them to be sent to Mr. Livadas,</p> <p>4 did you have an understanding of who exactly would be</p> <p>5 the buyer?</p> <p>6 A No, just in general Chinese investor or</p> <p>7 investors.</p> <p>8 Q Okay. And did you ever inquire of Mr. Livadas</p> <p>9 who the buyer was going to be?</p> <p>10 A That was the next step. I sent him this first</p> <p>11 because I believe he was in China at the time. And</p> <p>12 then the second step was, yes, of course, probably the</p> <p>13 Chinese investors, the strategic investors, they're</p> <p>14 going to call me, they're going to like to hear about</p> <p>15 the company. It's very normal. So I have to do a</p> <p>16 little presentation over the phone. Or usually I will</p> <p>17 put them in contact with one of the scientists, the</p> <p>18 scientific officer, or some other scientist to explain</p> <p>19 to them about the project. It's very natural process.</p> <p>20 Q Okay. So Mr. Livadas told you that these</p> <p>21 possible buyers would either want to talk or meet with</p> <p>22 you to talk about the company?</p> <p>23 A Of course.</p> <p>24 Q Okay. Is that yes?</p>

<p style="text-align: right;">Page 250</p> <p>1 A Yes.</p> <p>2 Q Okay. Sorry.Let's look at Exhibit --</p> <p>3 A I'm sorry. Maybe not exactly to meet with</p> <p>4 them, but definitely they're going to talk to me on the</p> <p>5 phone probably, because if they're in China, I'm in</p> <p>6 Greece, it's difficult to meet. On the phone or maybe,</p> <p>7 you know, to the company, to somebody, definitely.</p> <p>8 Q In either instance you were led to believe that</p> <p>9 they would want to talk about the company with</p> <p>10 somebody?</p> <p>11 A Yes.</p> <p>12 Q Would you look at Exhibit 28, please.In this</p> <p>13 email Mr. Livadas is telling Lambros, "Don't forget</p> <p>14 they need to be notarized, courier originals to Bouts."</p> <p>15 Do you see that?</p> <p>16 A Yes.</p> <p>17 Q Who is Bouts?</p> <p>18 A Bouts, he's referred to as Nicholas, Nicholas</p> <p>19 Boutsalis. He's a person, a very, very good friend of</p> <p>20 Mr. Christos Livadas. He is from Toronto, Canada.</p> <p>21 He's working for a company named Primoris,</p> <p>22 P-r-i-m-o-r-i-s, Primoris Group. They're based out of</p> <p>23 Toronto, Canada.</p> <p>24 Q And did Mr. Livadas indicate to you or to your</p>	<p style="text-align: right;">Page 251</p> <p>1 knowledge to Lambros why he wanted the originals sent</p> <p>2 to Mr. Boutsalis?</p> <p>3 A No.</p> <p>4 Q Did he indicate why he wanted them notarized?</p> <p>5 A To be samples. That's my understanding all the</p> <p>6 way.</p> <p>7 Q Okay. And did he tell you that directly or did</p> <p>8 he tell Lambros?</p> <p>9 A Through emails, through emails to Lambros.</p> <p>10 Q And the emails that Lambros explained to you?</p> <p>11 A Yes.</p> <p>12 Q Do you know whether Lambros or anyone else ever</p> <p>13 couriered the originals of the blank stock power and</p> <p>14 purchase and sale agreement to Mr. Boutsalis?</p> <p>15 A No, I have the originals in my briefcase here</p> <p>16 in the courtroom.</p> <p>17 Q Okay. And have those original documents been</p> <p>18 in your possession ever since this time period in June</p> <p>19 of 2013?</p> <p>20 A Yes.</p> <p>21 Q You've never delivered them to anybody?</p> <p>22 A I never deliver to anybody, because that's not</p> <p>23 the purpose of signing these samples. They only need</p> <p>24 the emails, they told me, Christos told Lambros and</p>
<p style="text-align: right;">Page 252</p> <p>1 myself to be seen by the Chinese investor. That's why</p> <p>2 I kept the originals in my briefcase.</p> <p>3 Q And so when did you next hear about a possible</p> <p>4 sale of your stock?</p> <p>5 THE COURT: Well, we're kind of moving into a</p> <p>6 different subject. It's about 3 o'clock, so it's</p> <p>7 probably a good time for us to break. Just give me one</p> <p>8 moment.</p> <p>9 Thank you. I was just making a note about what</p> <p>10 Mr. Skarpelos was just saying. Court will be in recess</p> <p>11 for approximately 15 minutes.</p> <p>12 (A recess was taken.)</p> <p>13 THE COURT: We'll go back on the record in</p> <p>14 Skarpelos versus Weiser, CV15-02259. Mr. Anderson, if</p> <p>15 you would like to continue your direct examination of</p> <p>16 Mr. Skarpelos.</p> <p>17 MR. ANDERSON: Thank you, Your Honor.</p> <p>18 BY MR. ANDERSON:</p> <p>19 Q After the timeframe of June and July 2013 when</p> <p>20 did you next hear from Mr. Livadas about a stock sale?</p> <p>21 A In the complaint they filed with NATCO. In</p> <p>22 2015.</p> <p>23 Q Okay. So you didn't hear anything from</p> <p>24 Mr. Livadas between July of 2013 and October or</p>	<p style="text-align: right;">Page 253</p> <p>1 November of 2015 regarding an alleged stock sale?</p> <p>2 A No.</p> <p>3 Q Just to be clear, you didn't hear anything?</p> <p>4 A Sometime by the end of the summer of 2015 we</p> <p>5 stopped talking with Mr. Livadas because he's left his</p> <p>6 summer vacation in Athens. So I never hear about</p> <p>7 this -- about the sale of the Chinese investor or</p> <p>8 anything like that. The first time I hear was again in</p> <p>9 2015, the complaint.</p> <p>10 THE COURT: But what time approximately in 2015?</p> <p>11 THE WITNESS: In the complaint they filed with</p> <p>12 NATCO in 2015.</p> <p>13 THE COURT: Oh, when the lawyers started sending</p> <p>14 the letters?</p> <p>15 THE WITNESS: Yes.</p> <p>16 BY MR. ANDERSON:</p> <p>17 Q Did Mr. Livadas ever tell you anything about</p> <p>18 why he stopped discussing the Chinese investors?</p> <p>19 A He says to me they are not interested anymore.</p> <p>20 Q Prior to this lawsuit being filed in November</p> <p>21 of 2015 did you ever see a signed purchase and sale</p> <p>22 agreement that included a buyer and a closing date?</p> <p>23 A Never.</p> <p>24 Q Prior to this lawsuit did you ever see a signed</p>

<p style="text-align: right;">Page 254</p> <p>1 agreement that included -- I'm sorry -- a signed and 2 completed power of attorney or stock power? 3 A No. 4 Q Have you ever received any payment from anybody 5 for \$250,000? 6 A No. 7 Q And I think you testified earlier, but I just 8 want to confirm. Did you ever receive any money from 9 your WAM account? 10 A I never receive any money, I never expect money 11 from WAM account, because I never have an account. 12 Q Now, would you look at Exhibit 40, please. And 13 40 appears to be an email exchange between yourself and 14 Mr. Livadas. 15 A Yes. 16 Q Is that right? 17 A Yes. 18 Q Okay. At the very bottom of that email 19 Mr. Livadas states, "I haven't heard from him in a 20 week. I had everything ready for dollar symbol and 21 Christopher to go ahead." Do you see that? 22 A Yes. 23 Q Do you know what Mr. Livadas was talking about 24 here?</p>	<p style="text-align: right;">Page 255</p> <p>1 A No. Probably he was talking about the company 2 and financing the company, something like that. 3 Q Well, I don't want you to speculate. Do you 4 know who Christopher is? 5 A Yes. 6 Q Who is that? 7 A Christopher Missling. He's the CEO, they call 8 him CEO of Anavex Life Science. 9 Q The current CEO of Anavex? 10 A Yes. 11 Q And when Mr. Livadas says, "I haven't heard 12 from him in a week", do you know who "him" is talking 13 about? 14 A From the looks of this email and the email 15 above, he's speaking about Lambros Pedafronimos. He 16 used to call him Lou Lou. 17 Q Okay. And there's nothing below that email 18 that says, "I haven't heard from him in a week"; 19 correct? 20 A Correct. 21 Q Okay. And then you respond to Mr. Livadas. It 22 sounds like you're telling him Lambros went down to the 23 village and working in the vineyard, but I'm around if 24 you'd like to chat; correct?</p>
<p style="text-align: right;">Page 256</p> <p>1 A Correct. 2 Q Do you recall whether you ever chatted with 3 Mr. Livadas around the time of this email? 4 A I believe we chatted with Mr. Livadas around 5 that time, yes. 6 Q Okay. This email doesn't say anything about a 7 stock sale; correct? 8 A No. 9 Q Does this email say anything about WAM? 10 A No. 11 Q Does this email say anything about Weiser? 12 A No. 13 Q Or Weiser Capital? 14 A No. 15 Q Or a third-party purchaser? 16 A No. 17 Q And there's nothing about stock certificates in 18 here either; correct? 19 A Nothing. 20 Q Around this time -- well, strike that. What 21 happened on October 26th, 2015? 22 A Anavex Life Science, it was upgraded in the 23 NASDAQ Stock Exchange, in the big book. 24 THE COURT: October of 2015?</p>	<p style="text-align: right;">Page 257</p> <p>1 THE WITNESS: Yes. 2 BY MR. ANDERSON: 3 Q So on October 26th of 2015 Anavex becomes 4 listed on NASDAQ? 5 A Yes. 6 Q And can you explain for us briefly what that 7 means for the company? 8 A It was a big celebration for the company. 9 They're in the NASDAQ Stock Exchange. And big headache 10 for me starts the same time with this complaint. So I 11 never have time to be happy for the company to be 12 upgraded to NASDAQ. 13 Q Okay. And what does that do for the stock 14 value? 15 A Stock value has gone up. 16 Q Significantly? 17 A Significantly, yes. 18 Q Would you look at Exhibit 3, please. 19 A Three? 20 Q Three. 21 A Yes. 22 Q Have you seen this letter before? 23 A Yes. 24 Q Okay. And is this the first time that you</p>

<p style="text-align: right;">Page 258</p> <p>1 heard anything about Weiser claiming ownership of the</p> <p>2 stock?</p> <p>3 A Exactly, October 30th, 2015.</p> <p>4 Q Okay. Just four days after the stock was</p> <p>5 listed on NASDAQ?</p> <p>6 A Yes.</p> <p>7 Q Okay. And what did you do when you got this</p> <p>8 letter?</p> <p>9 A I got confused. And it takes me a couple days</p> <p>10 to be confused, totally confused, because I can't</p> <p>11 understand what is that. And then I reach to Christos</p> <p>12 Livadas' father, Vasilios Livadas, which he lives in</p> <p>13 Greece. And I tried to ask him if he knows anything</p> <p>14 about that or if he's in contact with Christos Livadas</p> <p>15 to see what his complaint is all about. I explain to</p> <p>16 Christos' Livadas father we're friends and what is</p> <p>17 this, I don't understand.</p> <p>18 Q Okay. Did you reach out to Christos directly?</p> <p>19 A No.</p> <p>20 Q Why not?</p> <p>21 A I been advised by my lawyer to not talk to</p> <p>22 Christos Livadas anymore.</p> <p>23 Q So you mentioned this issue to his father?</p> <p>24 A To his father, yes.</p>	<p style="text-align: right;">Page 259</p> <p>1 Q And who was your attorney that advised you</p> <p>2 during that time?</p> <p>3 A Clark & Wilson from Vancouver, Bernard Pinsky.</p> <p>4 Q Now, did you cause Mr. Pinsky to write a letter</p> <p>5 at some point?</p> <p>6 A We have to.</p> <p>7 Q Okay. Would you look at Exhibit 49, please.</p> <p>8 A Yes.</p> <p>9 Q Is this the letter that Mr. Pinsky wrote on</p> <p>10 your behalf?</p> <p>11 A Yes.</p> <p>12 Q Okay. And you authorized him to send it?</p> <p>13 A Yes.</p> <p>14 Q Does this letter accurately set forth the</p> <p>15 position that you were taking at that time?</p> <p>16 A Very much. This was in the very early days of</p> <p>17 this situation. And this was usually the overnight</p> <p>18 teleconferences due to the different timezones with</p> <p>19 Mr. Bernard Pinsky, and I believe he's done a great job</p> <p>20 starting the process.</p> <p>21 THE COURT: So Exhibit 49 is your legal response to</p> <p>22 Exhibit 3?</p> <p>23 THE WITNESS: Yes.</p> <p>24</p>
<p style="text-align: right;">Page 260</p> <p>1 BY MR. ANDERSON:</p> <p>2 Q In the fourth paragraph down that starts with</p> <p>3 "In July 2013", do you see that?</p> <p>4 A Yes.</p> <p>5 Q Okay. Mr. Pinsky wrote, "In July 2013 Weiser</p> <p>6 did reestablish contact with Mr. Skarpelos and informed</p> <p>7 him that they would like to arrange the sale of</p> <p>8 Mr. Skarpelos's shares."</p> <p>9 A Yes.</p> <p>10 Q Is that accurate?</p> <p>11 A No, it's not accurate.</p> <p>12 Q How is that -- I'm sorry. How is that not</p> <p>13 accurate?</p> <p>14 A Because it's supposed to be Christos Livadas</p> <p>15 reestablished, not Weiser.</p> <p>16 Q Okay. But Weiser had sent the demand letter;</p> <p>17 correct?</p> <p>18 A Correct.</p> <p>19 Q Okay. Now, in all the emails you've seen with</p> <p>20 Mr. Livadas in the June and July 2013 timeframe, was</p> <p>21 there ever an email from him indicating he was acting</p> <p>22 on behalf of Weiser?</p> <p>23 A No.</p> <p>24 Q Okay. And that paragraph goes on to state that</p>	<p style="text-align: right;">Page 261</p> <p>1 "Mr. Skarpelos was prepared to sell on the right</p> <p>2 conditions and did sign a purchase agreement on July</p> <p>3 9th, 2013, with regard to sale of the new</p> <p>4 certificates." Is that accurate?</p> <p>5 A Which paragraph is that?</p> <p>6 Q It's still in that same paragraph that we just</p> <p>7 discussed.</p> <p>8 A The fourth paragraph, yes.</p> <p>9 Q And the second sentence --</p> <p>10 A Yes, yes. I agree, yes, that's correct.</p> <p>11 Q Okay. Your intent in going back and forth with</p> <p>12 Mr. -- the document involving Mr. Livadas at that time</p> <p>13 in July of 2013 was that you would sell the new shares</p> <p>14 on the right condition? I'm sorry. The new -- the</p> <p>15 shares involved in the new certificate on the right</p> <p>16 condition.</p> <p>17 A Always, because I have -- in order for the sale</p> <p>18 to go through, first of all, I have to do letter of</p> <p>19 direction to the transfer agent, NATCO, in order to</p> <p>20 instruct them what to do with the purchase and sales</p> <p>21 agreement. NATCO, they know which shares they're going</p> <p>22 to sell. I don't have to tell them. If NATCO issues</p> <p>23 new shares, then the new shares are going to be</p> <p>24 transferred to the new buyer. The old certificate, it</p>

<p style="text-align: right;">Page 262</p> <p>1 goes to missing or something like that.</p> <p>2 Q But even though the prior certificate was</p> <p>3 canceled, you still had the ability to sell the shares</p> <p>4 because the shares were represented by a new</p> <p>5 certificate?</p> <p>6 A The shares are the same. So now the shares,</p> <p>7 they're sitting with a new certificate. It's been</p> <p>8 issued by NATCO, the transfer agent.</p> <p>9 Q Did you ever get to a point in your discussions</p> <p>10 about a possible sale where you were asked to provide a</p> <p>11 certificate number?</p> <p>12 A Never.</p> <p>13 Q When you -- you heard Mr. Livadas's testimony</p> <p>14 yesterday in regards to the canceled stock</p> <p>15 certificate --</p> <p>16 A Yes.</p> <p>17 Q -- and how it was close in time to the alleged</p> <p>18 April 2nd, 2013, transaction? Did you hear that</p> <p>19 testimony?</p> <p>20 A Yes.</p> <p>21 Q Okay. What was your intent -- was your intent</p> <p>22 in canceling that certificate to cause harm to WAM in</p> <p>23 any way?</p> <p>24 A Of course not, but I never cancel the</p>	<p style="text-align: right;">Page 263</p> <p>1 certificate in early 2013 in the spring. At that time</p> <p>2 I cancel the certificate, I cancel it for totally</p> <p>3 different reasons. I never know I'm going to be</p> <p>4 disgusted with Mr. Christos Livadas in July or August</p> <p>5 of 2013 for sale of my position to Chinese investor.</p> <p>6 So I never done that in order to cause problem to a</p> <p>7 buyer which happens to be in the discussions a few</p> <p>8 months later. In any event, as far as I know, I call</p> <p>9 the transfer agent, NATCO, if any type of sale was</p> <p>10 happen --</p> <p>11 MR. NORK: Objection. Lacks foundation. Hearsay.</p> <p>12 THE COURT: I'll sustain the objection. Go ahead.</p> <p>13 Next question.</p> <p>14 BY MR. ANDERSON:</p> <p>15 Q Do you know what the term a fast one means?</p> <p>16 A Say that again, sir.</p> <p>17 Q Were you trying to do anything underhanded when</p> <p>18 you canceled the shares?</p> <p>19 A What is underhanded?</p> <p>20 Q Deceptive, fraudulent, deceitful.</p> <p>21 A Of course not.</p> <p>22 Q Okay. And the first time you ever heard of the</p> <p>23 April 2nd, 2013, alleged transaction was in this</p> <p>24 lawsuit?</p>
<p style="text-align: right;">Page 264</p> <p>1 A Yes.</p> <p>2 Q Would you look at Exhibit 30, please.</p> <p>3 A Yes.</p> <p>4 Q When was the first time you saw the document</p> <p>5 that is Exhibit 30?</p> <p>6 A I saw it again in the discovery process as soon</p> <p>7 as this start in 2015.</p> <p>8 Q You saw this for the first time after the</p> <p>9 commencement of the lawsuit?</p> <p>10 A Yes.</p> <p>11 THE COURT: And by "this" you mean in its completed</p> <p>12 form?</p> <p>13 MR. ANDERSON: I apologize, Your Honor. I'll</p> <p>14 clarify that.</p> <p>15 BY MR. ANDERSON:</p> <p>16 Q The first time you saw Exhibit 30 which is the</p> <p>17 completed form of purchase and sale agreement was after</p> <p>18 this lawsuit started?</p> <p>19 A Yes.</p> <p>20 Q Okay. I think you testified earlier that this</p> <p>21 was also the first time after the lawsuit started that</p> <p>22 you ever heard of Weiser Bahamas, Ltd.</p> <p>23 A Yes.</p> <p>24 Q And you never received any payment from Weiser</p>	<p style="text-align: right;">Page 265</p> <p>1 Bahamas, aka Weiser Capital?</p> <p>2 A Never.</p> <p>3 Q Did you ever receive any money from WAM?</p> <p>4 A Never. I never expect to receive any money</p> <p>5 from these people.</p> <p>6 Q My question was just not what you expected.</p> <p>7 Did you receive any money from a WAM entity or Weiser</p> <p>8 or anything?</p> <p>9 A No.</p> <p>10 Q Okay. Did you ever receive any money from</p> <p>11 Lambros or Nikolaos?</p> <p>12 A No.</p> <p>13 Q And I just want to clarify something really</p> <p>14 quick. Lambros is your cousin?</p> <p>15 A Yes.</p> <p>16 Q Okay. And Nikolaos is your uncle?</p> <p>17 A My uncle, yes.</p> <p>18 Q Are your parents still living?</p> <p>19 A Yes.</p> <p>20 Q What do they do?</p> <p>21 A My parents, they're farmers, they operate a</p> <p>22 farm in Greece.</p> <p>23 Q They own the olive oil farm?</p> <p>24 A Yes, yes. It's a family trust.</p>

<p style="text-align: right;">Page 266</p> <p>1 Q A family trust?</p> <p>2 A Yes.</p> <p>3 Q Okay. Did anyone ever notify you that your WAM</p> <p>4 account had been credited \$250,000?</p> <p>5 A Never.</p> <p>6 Q Did you intend to sell the stock that's at</p> <p>7 issue to Weiser Capital?</p> <p>8 A No.</p> <p>9 Q Did you intend to sell the stock that's at</p> <p>10 issue or any of your position to WAM?</p> <p>11 A No.</p> <p>12 Q Okay. Were you ever told the identity of the</p> <p>13 strategic Chinese investors?</p> <p>14 A Just Chinese investor.</p> <p>15 Q Were you ever told their names or companies or</p> <p>16 anything like that?</p> <p>17 A No, it was very -- I don't believe I ever ask</p> <p>18 them at that point.</p> <p>19 Q Did you ever discuss a closing date for Exhibit</p> <p>20 30 with Mr. Livadas?</p> <p>21 A I don't remember if it's --</p> <p>22 Q Well, if you look at the first page, it has a</p> <p>23 closing date of September 30th, 2013.</p> <p>24 A I don't believe so.</p>	<p style="text-align: right;">Page 267</p> <p>1 Q Okay. And --</p> <p>2 A This never was completed or discussed.</p> <p>3 Q Okay. And you never received a cash payment of</p> <p>4 \$250,000 from anybody?</p> <p>5 A No.</p> <p>6 Q You were sitting here yesterday and you heard</p> <p>7 Mr. Nork make a statement before the Court before we</p> <p>8 started. Do you recall that?</p> <p>9 A Yes.</p> <p>10 Q Okay. And Mr. Nork has stated then and there's</p> <p>11 been documents in which they question your lack of</p> <p>12 banking records. Do you understand that?</p> <p>13 A Yes.</p> <p>14 Q Okay. Just briefly explain why you don't have</p> <p>15 very many banks records.</p> <p>16 A Because Greece, it's been going through</p> <p>17 financial disasters the last ten years, the banking</p> <p>18 system is in distress. Lots of the Greek banks they</p> <p>19 shut down, they close. A few banks that are still</p> <p>20 open, they operate strictly with European rules and</p> <p>21 regulations. If you have an active account like I do,</p> <p>22 there's no way for me to file statements. They don't</p> <p>23 produce statements. Because my bank account was</p> <p>24 inactive. I ask the bank to provide whatever they can</p>
<p style="text-align: right;">Page 268</p> <p>1 give to me.</p> <p>2 Q Do you have any income?</p> <p>3 A No.</p> <p>4 Q I mean, you don't have a job; correct?</p> <p>5 A I don't have a job.</p> <p>6 Q When you made money in the stock market from</p> <p>7 the diamond company, what did you do with that money?</p> <p>8 A I invested it.</p> <p>9 Q Okay. And did you invest money in Anavex?</p> <p>10 A Of course.</p> <p>11 Q How much? I mean, don't give me a specific</p> <p>12 amount, but was it a large percentage of your --</p> <p>13 A It was very much all my money, not all of them</p> <p>14 but very much, around a million dollars, one million</p> <p>15 dollars.</p> <p>16 Q Do you live in the same town as your parents?</p> <p>17 A Yes.</p> <p>18 Q Okay. And does your wife have a job?</p> <p>19 A Yes. My wife is a psychologist. And she's</p> <p>20 operating at athletic center.</p> <p>21 Q Is it expensive to live in Astros?</p> <p>22 A No.</p> <p>23 Q Do you know what Verdmont Capital is?</p> <p>24 A I hear the name, yes.</p>	<p style="text-align: right;">Page 269</p> <p>1 Q Okay. What is it?</p> <p>2 A The second I Google I hear from Christos --</p> <p>3 THE COURT: Hold on a second. Don't tell me what</p> <p>4 you read on Google. If Mr. Livadas told you something,</p> <p>5 you can tell me what Mr. Livadas said.</p> <p>6 THE WITNESS: Okay. Thank you.</p> <p>7 THE COURT: Many people think Google and Wikipedia</p> <p>8 are authoritative sources these days, and they are not.</p> <p>9 THE WITNESS: I hear Verdmont and I know Verdmont.</p> <p>10 It's a stockbroker firm in Panama. I was visiting</p> <p>11 Panama long time ago and I must have met a few of the</p> <p>12 people from Vermont back in -- I don't remember. Long</p> <p>13 time ago. Many, many years ago. I met a few of their</p> <p>14 officials from Verdmont. With Christos always, because</p> <p>15 it was Christos very good friends.</p> <p>16 BY MR. ANDERSON:</p> <p>17 Q Okay. Did you ever hear from Christos that WAM</p> <p>18 had some sort of affiliation with Verdmont?</p> <p>19 A Yes.</p> <p>20 Q Okay. I would like you to look at Exhibit 44,</p> <p>21 please. Mr. Skarpelos, when was the first time you saw</p> <p>22 Exhibit 44?</p> <p>23 A I get it with the rest of the papers that</p> <p>24 was served to the lawyers the end of 2015 or '16.</p>

<p style="text-align: right;">Page 270</p> <p>1 Q After the commencement of this lawsuit?</p> <p>2 A Yes.</p> <p>3 Q Now, there are -- if you turn to the second</p> <p>4 page of this document, there are a number of</p> <p>5 transactions that are listed on here.</p> <p>6 A Yes.</p> <p>7 Q Do you see those?</p> <p>8 A Yes.</p> <p>9 Q Okay. In 2012 and '13 did you conduct any</p> <p>10 activity on a WAM account?</p> <p>11 A I never have an account. I never conduct</p> <p>12 anything.</p> <p>13 Q And you never directed anybody to perform any</p> <p>14 transactions on a WAM account?</p> <p>15 A Yes. No, I never direct nobody.</p> <p>16 Q Okay. You're aware that Mr. Livadas said</p> <p>17 yesterday that you had a negative \$153,000 balance at</p> <p>18 one point in time?</p> <p>19 A Yes.</p> <p>20 Q Okay. Do you agree with that?</p> <p>21 A No.</p> <p>22 Q Okay. And you heard his testimony -- if you</p> <p>23 look down here there's an April 2nd stock sale. And</p> <p>24 your account is credited \$249,580.</p>	<p style="text-align: right;">Page 271</p> <p>1 A Yes.</p> <p>2 Q Is that a real transaction?</p> <p>3 A I don't understand this document. It's not my</p> <p>4 creation. I never seen it before. I can't explain it.</p> <p>5 Q You never received any statements from WAM?</p> <p>6 A Never.</p> <p>7 Q You never received anything from WAM?</p> <p>8 A Nothing.</p> <p>9 Q Okay. I think you testified earlier you never</p> <p>10 authorized WAM, Mr. Livadas or Weiser Capital or anyone</p> <p>11 else to sell your stock?</p> <p>12 A Never.</p> <p>13 Q Who owns the disputed stock, Mr. Skarpelos?</p> <p>14 A I'll the full undisputed owner up to before</p> <p>15 this transfer starts. Still I'm the owner. I vote my</p> <p>16 stock a few weeks ago.</p> <p>17 Q I'm sorry?</p> <p>18 A I vote my stock every year. I'm the owner.</p> <p>19 Q Has anyone else ever voted your stock?</p> <p>20 A Nobody.</p> <p>21 Q And if I understand your testimony correctly,</p> <p>22 the July documents going back and forth never got close</p> <p>23 to a final deal?</p> <p>24 A Never.</p>
<p style="text-align: right;">Page 272</p> <p>1 MR. ANDERSON: The Court's indulgence for one</p> <p>2 moment.</p> <p>3 THE COURT: Okay.</p> <p>4 MR. ANDERSON: No further questions at this time,</p> <p>5 Your Honor.</p> <p>6 THE COURT: Before cross-examination begins --</p> <p>7 Mr. Anderson, I guess before Mr. Skarpelos was going to</p> <p>8 testify would have been your opportunity to make an</p> <p>9 opening statement. You had reserved the opening</p> <p>10 statement and then we just went right into</p> <p>11 Mr. Skarpelos's testimony. Given the fact I've read</p> <p>12 your trial statement and I think I'm familiar with what</p> <p>13 the issues are as you presented them or you intend to</p> <p>14 present them, I don't know if it's necessary at this</p> <p>15 point, but I don't want to tell you you can't make your</p> <p>16 opening statement either. It's just with the way that</p> <p>17 the parties have agreed, and parenthetically I'll say I</p> <p>18 appreciate the fact that the parties are agreeing to</p> <p>19 work together to, but the way they've agreed to call</p> <p>20 the witnesses -- we heard from Mr. Livadas first. Now</p> <p>21 we've heard from Mr. Skarpelos. I assume he's your</p> <p>22 lead witness, because you called him. I don't know if</p> <p>23 you wanted to make an opening statement.</p> <p>24 MR. ANDERSON: Your Honor, I had kind of intended</p>	<p style="text-align: right;">Page 273</p> <p>1 to. Mr. Nork indicated he hadn't rested. And I think</p> <p>2 the way things are going, I think everything is pretty</p> <p>3 clearly laid out in my trial statement. I think the</p> <p>4 Court is probably aware after my cross-examination of</p> <p>5 Mr. Livadas and now my direct of Mr. Skarpelos, so I'll</p> <p>6 go ahead and waive my opening statement. I don't</p> <p>7 believe it would assist the Court any more than I've</p> <p>8 already tried to, and so I will waive that opening</p> <p>9 statement. I did intend to make a Rule 52 motion after</p> <p>10 their case, but because Mr. Nork didn't rest, I can't</p> <p>11 make that. I think what's going to be end up happening</p> <p>12 is that it's probably going to coincide with my closing</p> <p>13 argument at some point, because all the witnesses</p> <p>14 basically were either going to be jointly called or we</p> <p>15 had an agreement to move through them.</p> <p>16 THE COURT: After Mr. Skarpelos's testimony is</p> <p>17 concluded who have you agreed is the next witness that</p> <p>18 will be called and who will be calling that witness?</p> <p>19 MR. ANDERSON: Well, there's two additional</p> <p>20 witnesses left. I think they'll both be much briefer</p> <p>21 than Mr. Skarpelos and Mr. Livadas. Alex Walker from</p> <p>22 NATCO and Lambros Pedafonimos will be testifying as</p> <p>23 well.</p> <p>24 THE COURT: Who is calling those witnesses?</p>

<p style="text-align: right;">Page 274</p> <p>1 MR. ANDERSON: I had planned to call -- I think we 2 were both kind of planning to jointly call them. 3 MR. NORK: Right. We had a discussion during the 4 break, Your Honor, and we know that Mr. Walker has a 5 flight to catch tomorrow, so we're trying to figure out 6 how we can get him in and done. 7 THE COURT: What we can do is we can take a break 8 with Mr. Skarpelos's testimony and Mr. Walker can be 9 called right now if he's physically present in the 10 building. If he's got to be at the airport -- 11 Somebody's phone is going off. You can just turn 12 it off. I don't care. 13 Just so everyone knows, when I said that, I just 14 heard something vibrating. 15 MR. ANDERSON: And I panic every time a judge says 16 that, because I've seen the consequences sometimes. 17 THE COURT: I've never lost my mind about phones 18 ringing. It's just kind of more an inconvenience than 19 anything else. 20 MR. ANDERSON: Your Honor, I think -- 21 THE COURT: But I've seen other judges completely 22 lose their minds. 23 MR. ANDERSON: Your Honor, I think Mr. Nork and I 24 were thinking if it looks like we're cutting it close</p>	<p style="text-align: right;">Page 275</p> <p>1 with Mr. Skarpelos that perhaps we could call 2 Mr. Walker tomorrow morning sometime. That way -- I 3 don't think he'll take more than, you know, an hour or 4 so, but that's like the famous "I only have one 5 question." 6 THE COURT: How long is it anticipated -- strike 7 that. Let me start again. When does Mr. Walker need 8 to be at the airport tomorrow? Mr. Adams. 9 MR. ADAMS: Judge, he represented to me that he 10 needs to be at the airport by 5:00. 11 THE COURT: Oh, in the evening? 12 MR. ADAMS: Yes. 13 THE COURT: Okay. Then I'm not as worried about 14 it. When you said the airport tomorrow, I was thinking 15 he had to be there in the morning, so if he was here we 16 could get him out of the way. So if he's not here now, 17 there's no reason to bring him down here to testify. 18 Right now it's quarter of 4:00. As we know, we're 19 going to go for about another hour before we break, 20 maybe a little bit less today, and then we'll take our 21 evening recess. Tomorrow when we begin if you could 22 let Mr. Walker know that we'll call him out of order. 23 So the first thing we'll do tomorrow morning at 24 8:30 a.m. is Mr. Walker can be called to testify.</p>
<p style="text-align: right;">Page 276</p> <p>1 We'll get his testimony completely out of the way. 2 And then wherever Mr. Skarpelos is in his 3 testimony, either if you're still doing 4 cross-examination, Mr. Nork, you can continue to do 5 that, or if we're on redirect or recross we can do that 6 as well, but I just don't want to unnecessarily hold up 7 Mr. Walker so he's kind of panicking on his way to the 8 airport. 9 MR. NORK: That's kind of what I raised with 10 Mr. Anderson during the break which is in a perfect 11 world I would like not to break up my cross-examination 12 of Mr. Skarpelos, so I don't have a problem starting 13 tomorrow morning with Mr. Walker, getting Mr. Walker 14 done and then commencing my cross-examination of 15 Mr. Skarpelos. I know that loses us a valuable hour 16 today. 17 THE COURT: Well, as a former trial attorney 18 myself, I appreciate the fact that sometimes you either 19 build momentum or you want to continue with your 20 cross-examination without a break in it. So I don't -- 21 I wouldn't mind breaking an hour early today. 22 Mr. Anderson, do you have any objection to that? 23 MR. ANDERSON: I'm happy to accommodate everyone's 24 desires. I think -- I understand Mr. Nork doesn't want</p>	<p style="text-align: right;">Page 277</p> <p>1 to break up his cross-examination. That's fair. And 2 so I would be fine with postponing Mr. Skarpelos's 3 cross-examination until after Mr. Walker is completed 4 tomorrow morning. And then we'll call Mr. Lambros in 5 the afternoon and I think we might be able to -- 6 THE COURT: I was going to say, the parties had 7 scheduled five full trial days. It seems to me based 8 on what I've seen that even though the parties are 9 being appropriately thorough with their direct and 10 cross-examination of the witnesses, we're not going to 11 need the full five days. 12 So probably what I would anticipate, gentlemen, is 13 that tomorrow if we get all the way through the 14 testimony of the witnesses, all of them, including 15 Mr. Skarpelos, what we should do then is we'll take a 16 break. Regardless of when that happens, we'll just 17 stop tomorrow. That's Wednesday. We can come back 18 then on Thursday morning and we can do closing 19 arguments. If there are any pre-closing argument 20 motions that either party wishes to raise, we can do 21 that at that time. Then we'll go into closing 22 arguments. 23 I don't intend on ruling from the bench, you know, 24 you guys are going to finish talking and sit down and</p>

<p style="text-align: right;">Page 278</p> <p>1 I'm going to shoot you an answer. But what I would 2 like to do is once I hear the closing arguments I 3 anticipate taking the case then under submission and 4 bringing you back on Friday and giving you my ruling. I 5 think we talked about this during our pretrial 6 conference that in one of my discussions with Judge 7 Adams about bench trials, it's always good to give your 8 ruling when it's fresh in your mind and the issues are 9 clear and present than saying, "I'm going to take it 10 under advisement," and start crafting something 60 days 11 down the road. 12 So what I anticipate doing is finishing the 13 testimony then tomorrow based on what I've heard from 14 the attorneys, coming back on Thursday for closing 15 argument and any post-testimony motions. And then 16 you'll come back on Friday it is my hope and I'll be 17 able to rule from the bench and let you know what the 18 ruling is and direct the prevailing party to prepare 19 the findings of fact, the conclusions of law and the 20 order. 21 I would also note that the parties did provide me 22 with proposed findings of fact and conclusions of law 23 that I'll be able to review now once I've heard the 24 testimony and see how they relate to the issues that</p>	<p style="text-align: right;">Page 279</p> <p>1 are raised in the two crossclaims. So with that, I 2 appreciate the collegiality, gentlemen. I'm sure that 3 everyone on my staff will appreciate ending an hour 4 earlier today. So we will be in recess until tomorrow 5 at 8:30 a.m. and we will recommence then with 6 Mr. Walker's testimony. We'll do his testimony first 7 and then Mr. Skarpelos will have his cross-examination. 8 MR. NORK: Great. Thank you. 9 THE COURT: Does that work for you, Mr. Nork? 10 MR. NORK: It does. Thank you, Your Honor. 11 THE COURT: And Mr. Anderson? 12 MR. ANDERSON: Yes, Your Honor. 13 THE COURT: All right, everybody, thank you. Have 14 a good evening. Court is in recess. 15 (The proceedings were adjourned at 3:50 p.m.) 16 --oOo-- 17 18 19 20 21 22 23 24</p>
<p style="text-align: right;">Page 280</p> <p>1 STATE OF NEVADA) 2) ss. 3 COUNTY OF WASHOE) 4 5 I, LORI URMSTON, Certified Court Reporter, in and 6 for the State of Nevada, do hereby certify: 7 That the foregoing proceedings were taken by me 8 at the time and place therein set forth; that the 9 proceedings were recorded stenographically by me and 10 thereafter transcribed via computer under my 11 supervision; that the foregoing is a full, true and 12 correct transcription of the proceedings to the best 13 of my knowledge, skill and ability. 14 I further certify that I am not a relative nor an 15 employee of any attorney or any of the parties, nor am 16 I financially or otherwise interested in this action. 17 I declare under penalty of perjury under the laws 18 of the State of Nevada that the foregoing statements 19 are true and correct. 20 DATED: At Reno, Nevada, this 6th day of 21 April, 2020. 22 23 LORI URMSTON, CCR #51 24 LORI URMSTON, CCR #51</p>	<p style="text-align: right;">Page 281</p> <p>1 HEALTH INFORMATION PRIVACY & SECURITY: CAUTIONARY NOTICE 2 Litigation Services is committed to compliance with applicable federal 3 and state laws and regulations ("Privacy Laws") governing the 4 protection and security of patient health information. Notice is 5 hereby given to all parties that transcripts of depositions and legal 6 proceedings, and transcript exhibits, may contain patient health 7 information that is protected from unauthorized access, use and 8 disclosure by Privacy Laws. Litigation Services requires that access, 9 maintenance, use, and disclosure (including but not limited to 10 electronic database maintenance and access, storage, distribution/ 11 dissemination and communication) of transcripts/exhibits containing 12 patient information be performed in compliance with Privacy Laws. 13 No transcript or exhibit containing protected patient health 14 information may be further disclosed except as permitted by Privacy 15 Laws. Litigation Services expects that all parties, parties' 16 attorneys, and their HIPAA Business Associates and Subcontractors will 17 make every reasonable effort to protect and secure patient health 18 information, and to comply with applicable Privacy Law mandates, 19 including but not limited to restrictions on access, storage, use, and 20 disclosure (sharing) of transcripts and transcript exhibits, and 21 applying "minimum necessary" standards where appropriate. It is 22 recommended that your office review its policies regarding sharing of 23 transcripts and exhibits - including access, storage, use, and 24 disclosure - for compliance with Privacy Laws. 25 © All Rights Reserved. Litigation Services (rev. 6/1/2019)</p>

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CASE NO. CV15-02259 **NEVADA AGENCY & TRANSFER CO. VS. WEISER ASSET ETAL**

DATE, JUDGE
OFFICERS OF
COURT PRESENT

Pg. 1

APPEARANCES-HEARING

1/30/19
HONORABLE
ELLIOTT A.
SATTLER
DEPT. NO. 10
M. Merkouris
(Clerk)
T. Amundsen
(Reporter)

ONGOING BENCH TRIAL

8:35 a.m. – Court reconvened.

Jeremy Nork, Esq., and Frank Laforge, Esq., were present on behalf of Cross-Claimants Weiser (Bahamas) Ltd., and Weiser Asset Management, Ltd. Mr. Christos Livadas was present with counsel Nork and Laforge.

Cross-Claimant Anthanasios Skarpelos was present with counsel Dane Anderson, Esq., and Seth Adams, Esq.

Counsel Adams called **Alexander Walker, III, Esq.**, who was sworn and direct examined; cross examined by counsel Nork; re-direct examined; re-cross examined; questioned by the Court; further questioned by counsel Nork; and excused.

10:16 a.m. – Court stood in recess.

10:35 p.m. – Court reconvened.

Mr. Skarpelos was reminded by the Court that he remains under oath; cross examined by counsel Nork.

Counsel Nork moved to have the deposition of Anthanasios Skarpelos, dated October 24, 2018, opened and published; **SO ORDERED.**

Witness further cross examined.

Counsel Nork offered Exhibit 61; counsel Anderson objected; objection overruled and Exhibit 61 shall be admitted into evidence.

Witness further cross examined.

Counsel Nork had Exhibit 63 marked for identification, noting that he only intends to use the document to refresh Mr. Skarpelos' recollection; counsel Anderson objected.

10:59 a.m. – Court stood in recess to allow counsel Anderson time to review Exhibit 63.

11:07 a.m. – Court reconvened.

Discussion ensued between the Court and respective counsel regarding Exhibit 63.

COURT ORDERED: Exhibit 63 will not be admitted into evidence, however it may be used to refresh Mr. Skarpelos' recollection.

Witness further cross examined.

12:00 p.m. – Court stood in recess for lunch.

1:17 p.m. – Court reconvened.

COURT noted the following for the record: during the lunch recess, he rode up to the 4th floor in an elevator with Mr. Livadas, the Court Clerk, and a maintenance worker; he told Mr. Livadas it was fine that he shared the same elevator, and the only topic of conversation was how interesting a medallion is, however he feels it is appropriate to put this information on the record.

Counsel Anderson indicated that he had no concerns.

Mr. Skarpelos was further cross examined.

Counsel Nork had Exhibit 64 marked for identification, noting that he only intends to use this document to refresh Mr. Skarpelos' recollection.

DATE, JUDGE
OFFICERS OF
COURT PRESENT

Pg. 2

APPEARANCES-HEARING

1/30/19
HONORABLE
ELLIOTT A.
SATTLER
DEPT. NO. 10
M. Merkouris
(Clerk)
T. Amundsen
(Reporter)

ONGOING BENCH TRIAL

Counsel Anderson objected.

COURT ORDERED: Exhibit 64 will not be admitted into evidence, however it may be used to refresh Mr. Skarpelos' recollection.

Witness further cross examined.

Counsel Nork had Exhibit 65 marked for identification, noting that he only intends to use the document to refresh Mr. Skarpelos' recollection; counsel Anderson objected.

COURT ORDERED: Exhibit 65 will not be admitted into evidence, however it may be used to refresh Mr. Skarpelos' recollection.

Witness further cross examined.

Counsel Nork had Exhibit 66 marked for identification, noting that he only intends to use the document to refresh Mr. Skarpelos' recollection; counsel Anderson objected.

COURT ORDERED: Exhibit 66 will not be admitted into evidence, however it may be used to refresh Mr. Skarpelos' recollection.

Witness further cross examined.

Counsel Nork had Exhibit 67 marked for identification, noting that he only intends to use the document to refresh Mr. Skarpelos' recollection; counsel Anderson objected.

COURT ORDERED: Exhibit 67 will not be admitted into evidence, however it may be used to refresh Mr. Skarpelos' recollection.

Witness further cross examined; re-direct examined.

3:04 p.m. – Court stood in recess.

3:17 p.m. – Court reconvened.

Witness re-cross examined; and excused.

Counsel Anderson called **Lambros Pedafronimos** who was sworn and direct examined; questioned by the Court.

Upon questioning by the Court, counsel Nork indicated that his cross examination of Mr. Pedafronimos will take longer than 15 minutes.

Discussion ensued between the Court and respective counsel regarding the timeline for the remainder of the trial, and the order for closing arguments.

4:38 p.m. – Court stood in recess for the evening, to reconvene tomorrow, January 31, 2019, at 8:30 a.m.

ΕΘΝΙΚΗ ΤΡΑΠΕΖΑ ΤΗΣ ΕΛΛΑΔΟΣ Α.Ε.

ΚΑΤΑΣΤΑΣΗ ΑΝΑΛΥΤΙΚΗΣ ΚΙΝΗΣΗΣ ΚΑΤΑΘΗΤΙΚΟΥ ΛΟΓΑΡΙΑΣΜΟΥ 248/7450303

ΣΕΛΙΔΑΣ 1

ΚΩΔΙΚΟΣ ΚΑΤΑΣΤΑΣΗΣ: ΚΑ384-V

ΚΑΤΑΣΤΑΣΗ: 248 ΑΣΤΡΟΥΣ

ΕΜΠΕΔΩΜΕΝΙΑ ΕΚΔΟΣΗΣ: 04.01.2018

ΔΕΝ ΥΠΑΡΧΟΥΝ ΑΝΑΛΥΤΙΚΕΣ ΚΙΝΗΣΕΙΣ ΚΑΤΑ ΤΟ ΔΙΑΣΤΗΜΑ 01.01.2007 ΕΩΣ 04.01.2018

248/7450303 ΔΙΑΔΙΑΚΟΝ ΑΚΙΝΗΤΟΥ Ε ΑΝΙΔΑΚΤΟΡ ΤΟ ΑΥΤΟΜΕΝΟ ΧΡΟΝΙΚΟ ΔΙΑΣΤΗΜΑ

ΤΕΛΟΣ ΚΑΤΑΣΤΑΣΗΣ: ΚΑ384-V

ΑΝΟΙΧΤΑ ΔΕΝ ΕΧΕΙ ΕΞΑΚΩΣΕΙ ΑΥΤΟ ΤΑ ΤΗΧΟΜΕΝΑ ΜΕΤΑΦΟΡΕΤΙΚΟΝ

ΕΜΠΟΡΙΚΑ ΕΠΕΝΔΥΣΕΙΣ ΤΗΣ ΤΡΑΠΕΖΑΣ ΚΑΙ ΕΡΓΟΔΟΜΕΝΟ

ΑΝΟ ΤΩΝ ΕΚΕΤΟΝΙΚΟΝ ΑΠΟΛΟΓΙΣΤΩΝ ΑΥΤΗΣ

3/1/2018

Ο ΗΓΕΜΟΝ ΤΩΝ ΙΝΣΤΙΤΟΥΤΩΝ

ΕΘΝΙΚΗ ΤΡΑΠΕΖΑ ΤΗΣ ΕΛΛΑΔΟΣ Α.Ε.

S000082

ΑΠΛΟ ΤΑΜΕΥΤΗΡΙΟ

248/745030-30

ΕΚΑΡΤΕΛΟΣ ΗΛΙΑΣ ΑΘΑΝΑΣΙΟΥ
ΕΚΑΡΤΕΛΟΣ ΑΘΑΝΑΣΙΟΣ ΗΛΙΑΣ
ΕΚΑΡΤΕΛΟΣ ΚΩΝ ΝΟΣ ΗΛΙΑ

IBAN ΑΔΙΑΡΙΑΣΜΟΥ
GR9201102480000024874503030

ΚΩΔ. SWIFT ΤΡΑΠΕΖΑΣ (BIC) ΕΤΗΝΓΡΑΑ

NATIONAL BANK OF GREECE S.A.
ATHENS BRANCH (248)

Α. ΠΑΡΟΥΣΙΑ

S000033

JA1561

ΑΠΛΟ ΤΑΜΙΕΥΤΗΡΙΟ

248/606024-24

ΣΚΑΡΠΕΛΟΣ ΑΘΑΝΑΣΙΟΣ ΗΛΙΑΣ

IBAN ΑΝΤΑΡΙΑΣΜΟΥ
GR7701102480000024860602424

ΚΩΔ. SWIFT ΤΡΑΠΕΖΑΣ (BIC) ETHNGRAA

NATIONAL BANK OF GREECE S.A.
ASTROS BRANCH (248)

ΕΠΙΧΕΙΡΗΣΙΑ

8000034

ΕΘΝΙΚΗ ΤΡΑΠΕΖΑ ΤΗΣ ΕΛΛΑΔΟΣ Α.Ε.

ΚΑΤΑΣΤΑΣΗ ΑΝΑΛΥΤΙΚΗΣ ΚΙΝΗΣΗΣ ΚΑΤΑΘΗΤΙΚΟΥ ΛΟΓΑΡΙΑΣΜΟΥ 248/6060242
ΡΟΛΟΙΟΣ ΚΑΤΑΣΤΑΣΗΣ: ΚΑ339-V

ΚΑΤΑΣΤΗΜΑ: 248 ΑΙΤΡΟΥΣΙ
ΥΠΕΡΒΛΙΑ: 90
ΗΜΕΡΟΜΗΝΙΑ: ΑΠΟΛΟΜΟΤΙΑ

ΗΜΕΡΟΜΗΝΙΑ ΕΚΔΟΣΗΣ: 04.01.2018
ΠΟΣΟ: ΝΟΜΙΣΜΑ ΥΠΟΛΟΙΠΟ

2486060242 ΗΜΕΡΟΜΗΝΙΑ ΠΡΟΚΙΝΟΥΜΕΝΗΣ ΚΙΝΗΣΗΣ: 01.01.0001 ΠΡΟΚΙΝΟΥΜΕΝΟ ΥΠΟΛΟΙΠΟ:

14.08.2014 010 ΚΑΤΑΣΕΣΗ

14.08.2014 2486A

20.08.2014 022 ΕΝΤΟΛΗ 24800006627

20.08.2014 2486A

0.00 ΕΥΡΩ

250.00 ΠΙ ΕΥΡΩ

229.65 ΧΡ ΕΥΡΩ

250.00 ΠΙ

20.35 ΠΙ

ΝΕΟ ΥΠΟΛΟΙΠΟ

ΤΕΛΟΣ ΚΑΤΑΣΤΑΣΗΣ: ΚΑ339-V

ΑΥΤΟΜΑΤΑ ΗΟΥ ΕΧΕΙ ΠΕΡΑΞΕΙ ΑΠΟ ΤΑ ΤΕΡΜΕΝΑ ΜΕΧΑΝΟΓΡΑΦΙΚΟΙ
ΕΜΠΟΡΙΚΑ ΒΙΒΛΙΑ ΤΗΣ ΤΡΑΠΕΖΑΣ ΚΑΙ ΕΚΤΥΠΩΜΕΝΟ
ΑΠΟ ΤΟΝ ΗΛΕΚΤΡΟΝΙΚΟ ΥΠΟΛΟΙΠΟ ΑΥΤΗΣ

4700 5.1.1.20.18

Ο ΠΡΕΣΒΥΤΕΡΟΣ ΤΗΣ ΠΙΝΕΖΑΣ ΕΚΤΥΠΩΣΗ
ΕΘΝΙΚΗΣ ΤΡΑΠΕΖΑΣ ΤΗΣ ΕΛΛΑΔΟΣ Α.Ε.

S000035

JA1563

No. CV15-02259

Skarpeles

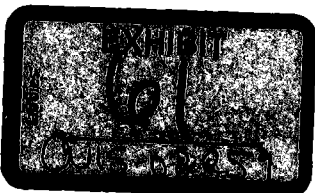
vs.

Weisen et al

Weisen Ex. 61

Admitted: 1/30, 2019
JACQUELINE BRYANT, CLERK

By [Signature]
Deputy



1 IN THE SECOND JUDICIAL DISTRICT COURT
2 OF THE STATE OF NEVADA
3 IN AND FOR THE COUNTY OF WASHOE
 -o0o-
4 NEVADA AGENCY AND TRANSFER COMPANY,
5 a Nevada corporation,
6 Plaintiff, Case No. CV15-02259
vs. Dept. No. 10
7 WEISER ASSET MANAGEMENT, LTD.,
8 a Bahamas company; ATHANASIOS
9 SKARPELOS, an individual; and DOES
1-10,
10 Defendants.
11 _____/
12 ATHANASIOS SKARPELOS, an individual,
13 Cross-Claimant,
14 vs.
15 WEISER ASSET MANAGEMENT, LTD.,
16 A Bahamas company; AND WEISER
17 (BAHAMAS) Ltd., A Bahamas company,
18 Cross-Defendants.
19 _____/
20 Pages 1 to 312, inclusive.
21
22 BENCH TRIAL
23 _____
24 Wednesday, January 30, 2019
 Reno, Nevada
Job No.: 524006
REPORTED BY: Christina Amundson, CCR 641

Page 2		Page 3	
1	A P P E A R A N C E S	1	I N D E X
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3	FOR WEISER ASSET MANAGEMENT, LTD.		EXAMINATION DIRECT CROSS REDIRECT RECROSS
4	HOLLAND & HART	3	
5	BY: JEREMY NORK, ATTORNEY AT LAW		Walker 4 57,65 67
6	5411 Kietzke Lane, Suite 200	4	Skarpelos 83 218 241
7	Reno, NV 89511		Pedafronimos 251
8	775.327.3043	5	
9		6	E X H I B I T S
10	FOR ATHANASIOS SKARPELOS:	7	No. FOR I.D. ADMITTED
11	WOODBURN AND WEDGE	8	61 97
12	BY: DANE ANDERSON, ATTORNEY AT LAW	9	63 100
13	SETH ADAMS, ATTORNEY AT LAW	10	64 168
14	6100 Neil Road, Suite 500	11	65 198
15	Reno, NV 89505	12	66 200
16	775.688.3000,	13	67 213
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Page 4		Page 5	
1	Reno, Nevada - January 30, 2019 - 8:30 a.m.	1	A. Alexander H. Walker, the Third.
2	THE COURT: Good morning, everyone. Please	2	Q. Mr. Walker, where do you reside?
3	be seated. Okay. We'll go back on the record in	3	A. Salt Lake City, Utah. Actually, it's north
4	CV15-02259, Skarpelos v. Weiser.	4	of Salt Lake. Farmington, Utah.
5	Counsel, I apologize we're starting about	5	Q. If I understand correctly, you're a
6	four minutes late today. This will sound odd, but	6	practice attorney. Where did you receive your
7	there was a traffic jam in the basement downstairs.	7	education?
8	All law enforcement vehicles are down there and they	8	A. University of Utah. I graduated in 1987.
9	were bringing in somebody that required additional	9	Q. 1987, okay. With what firm are you
10	attention, so that's kind of difficult to move	10	practicing?
11	around and get in. I apologize.	11	A. I'm a solo practitioner.
12	All parties are present. Counsel is	12	Q. And could you generally describe your
13	present. So, why don't we go and call Mr. Walker,	13	relationship with NATCO.
14	who is here. It is my understanding that the	14	A. Certainly. I'm also a member of the Utah
15	parties agreed to call Mr. Walker out of order.	15	bar admitted in '87 and Nevada bar admitted in 2003.
16	That's where we broke yesterday.	16	My admission with the Nevada bar was primarily a
17	Who is calling Mr. Walker? Mr. Adams?	17	function of my relationship with NATCO. NATCO is a
18	MR. ADAMS: We are, your Honor.	18	stock transfer agency, as I'm sure has been
19	(Witness sworn.)	19	mentioned at some point in this matter.
20	DIRECT EXAMINATION	20	It's a family-owned business. That family
21	BY MR. ADAMS:	21	is actually my family. My parents purchased Nevada
22	Q. Good morning, Mr. Walker.	22	Agency and what was called Nevada Agency and Trust
23	A. Good morning.	23	Company in 1968. And I've been involved in various
24	Q. If you could, please state your full name.	24	aspects of that business -- well, since high school,

<p style="text-align: right;">Page 6</p> <p>1 really. When I graduated from law school, my 2 involvement with NATCO involved representation of 3 NATCO in various matters including their securities 4 compliance matters. My practice since graduating 5 from law school has involved such matters in 6 securities compliance law, helping small companies 7 with their annual reporting obligations, drafting 8 10-Ks and 10-Qs and other annual reports. 9 But for that, surprisingly, 30-plus years 10 now, I have regularly performed legal services for 11 NATCO and during the last certainly 10 years since 12 my sister exclusively became a manager of NATCO -- 13 most probably prior to that, actually -- I 14 communicate with NATCO personnel on almost a daily 15 basis, not every day but close to with regard to the 16 matters that may pass through their office that 17 require the input of an attorney. 18 Q. You mentioned your sister, Mr. Walker. 19 What is her name and title with NATCO? 20 A. Amanda Cardinalli. She is the president of 21 Nevada Agency and Transfer Company. 22 Q. Okay. So, part of that familiarity, if I 23 understand correctly, you mentioned securities law. 24 Are you also familiar with Uniform Commercial Code?</p>	<p style="text-align: right;">Page 7</p> <p>1 A. NATCO's services as a transfer agent 2 involve compliance with commercial code. I really 3 don't know to what extent the services of a transfer 4 agent have been discussed, but a transfer agent 5 basically is the bookkeeper for a corporation in 6 connection with its stock register, the membership 7 of its shareholders, who are the shareholders. The 8 transfer agent maintains those records with regard 9 to who owns what number of shares in a company. 10 And for public corporations transfer agents 11 are exceptionally important for purposes of 12 facilitating securities purchases and sales, 13 physical stock or stock held in electronic form in 14 connection with the purchase or sale of a public 15 company generally ends up running through a transfer 16 agent at some point simply so the corporation's 17 books and records are accurate for purposes of 18 creating shareholder lists for annual meetings and 19 tracking number of shares for purposes of annual 20 audits or even quarterly reviews. 21 And those services, especially with regard 22 to the transfer of securities, involves compliance 23 with the Uniform Commercial Code. That's a rather 24 long-winded answer to your question, which I</p>
<p style="text-align: right;">Page 8</p> <p>1 probably could have said "Yes." 2 THE COURT: That was a lawyer answer to a 3 yes-or-no question. 4 THE WITNESS: Very true, your Honor. Right 5 on the money. 6 BY MR. ADAMS: 7 Q. We appreciate the clarity. 8 NATCO -- something I think that could be of 9 benefit, NATCO's relationship to Anavex -- and I say 10 this only in a vacuum. Are you aware of what state 11 Anavex is incorporated in? 12 A. Actually, sitting here, I don't. We can 13 find out by looking at the stock certificate but 14 that's something I didn't familiarize myself with. 15 Actually, I think it's probably Nevada, but I gotta 16 say without looking at the stock certificate, I 17 couldn't confirm that. If I was a betting man, 18 that's where my money would be right now, that it's 19 a Nevada corporation. 20 Q. I ask in the context of understanding whose 21 responsibility is it to select a stock transfer 22 agent? 23 A. It's the company's. The officers and 24 directors of the company will select their stock</p>	<p style="text-align: right;">Page 9</p> <p>1 transfer agent. 2 Q. Okay. In addition to the stock transfers 3 that you've mentioned Mr. Walker, would a transfer 4 agent such as NATCO have additional 5 responsibilities; namely, in the context of a 6 dispute between the parties here such as a stop on 7 issued stocks, a reissuance of stock, would that be 8 NATCO's responsibility? 9 A. Well, those types of issues certainly would 10 -- NATCO or a transfer agent question would be the 11 focal point of it. A request for a stock transfer 12 is something that's provided for in the UCC. 13 Compliance with those requirements is 14 something that a stock transfer agency would 15 undertake as part of the duties to the issuer. It's 16 technically the issuer -- when I say that, the 17 issuer of the company, Anavex in this case -- it's 18 the issuer's duty. The code imposes that duty upon 19 transfer agents as well, but theoretically, or 20 perhaps, technically speaking, the transfer agent is 21 form performing those services as the agent for the 22 issuer. So, stock transfer orders, actually 23 transfer of shares, receiving a request to transfer 24 shares, the nuts and bolts of compliance lies with</p>

<p style="text-align: right;">Page 10</p> <p>1 the transfer agent.</p> <p>2 Q. And NATCO involves only in an agency</p> <p>3 capacity for the issuing company?</p> <p>4 A. It does, that's very true. But the UCC</p> <p>5 also imposes certain responsibilities of an issuer</p> <p>6 on a transfer agent, so it's somewhat of a dual role</p> <p>7 there.</p> <p>8 Q. Okay. Mr. Walker, I briefly mentioned the</p> <p>9 aforementioned stopping again. I'm probably</p> <p>10 misphrasing it as a stop payment, but for purposes</p> <p>11 of using vernacular we're probably all familiar</p> <p>12 with, we'll work our way back through a couple</p> <p>13 exhibits here in a moment with regard to a certain</p> <p>14 stop payment, if you will, on the issued</p> <p>15 certificates.</p> <p>16 So, if you could, Mr. Walker, please turn</p> <p>17 to Exhibit 15 in the binder before you.</p> <p>18 A. I have it in front of me.</p> <p>19 Q. Do you see the title of that document, Mr.</p> <p>20 Walker?</p> <p>21 A. I do. It says, "Stock Transfer Order."</p> <p>22 Q. Do you see the date on that?</p> <p>23 A. March 29th, 2013. So, yes, I do see the</p> <p>24 date.</p>	<p style="text-align: right;">Page 11</p> <p>1 Q. Are you familiar with the document</p> <p>2 generally?</p> <p>3 A. I'm familiar as a result of this</p> <p>4 litigation, yes.</p> <p>5 Q. Okay. And does it indicate when it appears</p> <p>6 NATCO received it?</p> <p>7 A. I see what is NATCO's -- or a copy of</p> <p>8 NATCO's received stamp. It's common practice for</p> <p>9 NATCO to stamp the front of documents like this with</p> <p>10 this received stamp and it shows -- it's a little</p> <p>11 blurry but it looks like it's April 3rd, 2013.</p> <p>12 Q. Okay. Are you able to see from that form</p> <p>13 who made the request?</p> <p>14 A. It looks like Mr. Skarpelos, the defendant</p> <p>15 -- one of the defendants now, interpleading parties</p> <p>16 in this matter.</p> <p>17 Q. And I will advise you, Mr. Walker, that I</p> <p>18 think the parties have stipulated to go on a last</p> <p>19 name basis here, so "Mr. Skarpelos" will work fine.</p> <p>20 I won't attempt the first name in proper</p> <p>21 pronunciation either.</p> <p>22 A. Thank you.</p> <p>23 Q. Also, are you able to see what certificate</p> <p>24 numbers are being requested by Mr. Skarpelos to be</p>
<p style="text-align: right;">Page 12</p> <p>1 stopped?</p> <p>2 A. Certificate No. 660 and Certificate No.</p> <p>3 753.</p> <p>4 Q. Thank you. If you could turn to Exhibit</p> <p>5 14, please, and if you could indicate what is the</p> <p>6 title of this form?</p> <p>7 A. It is an Affidavit for Lost Stock</p> <p>8 Certificate. Also appears to have been filled out</p> <p>9 and executed by Mr. Skarpelos.</p> <p>10 Q. Is this a standard NATCO form, Mr. Walker?</p> <p>11 A. Yes. Both the previous exhibit you had me</p> <p>12 look at and this affidavit are standard NATCO forms</p> <p>13 at that time. They've been modified a little bit</p> <p>14 since then. Not exactly the same form now but these</p> <p>15 are the forms that were used then.</p> <p>16 Q. Okay. With regard to the stop, the last</p> <p>17 exhibit we'll look at here is Exhibit 13, please.</p> <p>18 If you could indicate the title.</p> <p>19 A. This is another what we call a NATCO form,</p> <p>20 a corporate indemnity that NATCO would have asked</p> <p>21 for in connection with a claim of a lost certificate</p> <p>22 and issuance of a replacement certificate.</p> <p>23 NATCO generally asks for an indemnity from</p> <p>24 the issuer in cases where a bond isn't put in place.</p>	<p style="text-align: right;">Page 13</p> <p>1 And in cases such as this, this would have been a</p> <p>2 perfect example where corporate indemnity from the</p> <p>3 issuer would have been used to protect NATCO under</p> <p>4 the terms of the Uniform Commercial Code.</p> <p>5 Q. Mr. Walker, you did indicate that in</p> <p>6 certain instances a bond is required and in other</p> <p>7 instances an indemnity is required. Can you explain</p> <p>8 when that distinction is made by NATCO?</p> <p>9 A. There's probably no exact bright line but,</p> <p>10 generally speaking, NATCO's corporate clients -- of</p> <p>11 which it has many, have several hundred -- some of</p> <p>12 them have several hundred shareholders and the</p> <p>13 identities of those people and their background are</p> <p>14 generally unknown to NATCO.</p> <p>15 A stock transfer agent just doesn't know</p> <p>16 who all the shareholders of the corporation are. If</p> <p>17 one of them loses a stock certificate, the general</p> <p>18 practice for any transfer agent, certainly for</p> <p>19 NATCO, would be to require a bond in an open amount</p> <p>20 in connection with issuing a replacement bond.</p> <p>21 That bond is put in place in favor of the</p> <p>22 issuer and transfer agent in the event the stock</p> <p>23 certificate ever reappears and is submitted by a</p> <p>24 protected purchaser. The UCC would require the</p>

<p style="text-align: right;">Page 14</p> <p>1 issuer and the transfer agent to recognize that and 2 the bond would be used in some circumstances to 3 actually purchase shares in the market to cover the 4 difference so that the corporation's books and 5 records, their number of issued and outstanding 6 shares remains the same.</p> <p>7 Q. Okay.</p> <p>8 A. Now, in cases where -- especially in this 9 one -- at the time in question Mr. Skarpelos was the 10 sole officer and director of the issuer. The issuer 11 can waive the requirement for a bond and often does 12 when it's a smaller corporation and Nevada Agency 13 will accept an indemnity from the corporation in 14 place of the bond.</p> <p>15 So, in circumstances where a lost 16 certificate shows up and is shown to be in the hands 17 of a protected purchaser and the duties under the 18 code are imposed, there is a financial document that 19 will cover replacement of those shares. Because at 20 the end of the day, if an appropriate purchaser is 21 showed on a lost certificate, somehow that has to be 22 accounted for. So, the bond or the indemnity are 23 the financial documents that help the transfer agent 24 and the issuer do that.</p>	<p style="text-align: right;">Page 15</p> <p>1 Q. Okay. Ultimately we've taken a look at 2 these three documents. What was NATCO's response 3 ultimately when it received process, made the 4 determination that a stop payment, frankly, was 5 warranted? Are you familiar with what action NATCO 6 took after the receipt of these forms?</p> <p>7 MR. NORK: Objection, lacks foundation. I 8 know we've done a lot of background leading up to 9 this and I haven't objected. But Mr. Walker 10 testified that he's the attorney for NATCO, not an 11 employee of NATCO, so I'm concerned about 12 foundation, A.</p> <p>13 B, we're getting perilously close to expert 14 testimony and there are no experts designated in 15 this case. Mr. Walker is very familiar with the law 16 in this case but he has not been designated by any 17 party as an expert. So, that's my objection, your 18 Honor.</p> <p>19 THE COURT: Mr. Adams, in response, the 20 expert testimony objection is not actually made yet. 21 We're getting perilously close, so I'm not going to 22 address that.</p> <p>23 MR. NORK: Foreshadowing, your Honor.</p> <p>24 THE COURT: Regarding the foundational</p>
<p style="text-align: right;">Page 16</p> <p>1 question, would you like to lay additional 2 foundation how Mr. Walker would know specifically 3 what happened during this case.</p> <p>4 MR. ADAMS: Certainly.</p> <p>5 THE COURT: His testimony has been in a 6 general sense so far but now you're focusing in on 7 these three exhibits. So, if you'd like to lay 8 additional foundation how he would have knowledge of 9 those issues.</p> <p>10 BY MR. ADAMS:</p> <p>11 Q. Mr. Walker, in the context of being 12 retained, if you will, by NATCO in the course of 13 this litigation, do you familiarize yourself with 14 what we've reviewed thus far as Exhibit 13, 14, and 15 15?</p> <p>16 A. I have.</p> <p>17 Q. And approximately when did you review those 18 forms?</p> <p>19 A. I would have initially reviewed these 20 around October 30th of 2015. I think that was a 21 Friday, so I probably saw these documents over that 22 weekend and the beginning of the following week.</p> <p>23 Q. Okay. In the context of your former 24 relationship and former representation, I should say</p>	<p style="text-align: right;">Page 17</p> <p>1 of NATCO, have you seen NATCO's form Stock Transfer 2 Order before?</p> <p>3 A. Oh, yes.</p> <p>4 Q. Have you seen NATCO's form Affidavit for 5 Lost Stock Certificate before?</p> <p>6 A. Yes, I have.</p> <p>7 Q. Have you seen NATCO's form of Corporate 8 Indemnity to Nevada Agency and Transfer Company 9 before?</p> <p>10 A. I have.</p> <p>11 Q. Okay. In the context of your 12 representation of NATCO in this litigation, are you 13 aware of whether NATCO issued a stop on the two 14 aforementioned stock certificates that we referenced 15 in the order?</p> <p>16 A. Based upon my review of the documents, I 17 believe that it was. To state that I know it, to 18 the extent that that would require me to divulge a 19 communication that is protected by the 20 attorney-client relationship, it is -- that is an 21 issue that we would have to address here and I'm 22 actually prepared to address.</p> <p>23 But I'm trying to be exceptionally careful 24 in identifying information or making statements</p>

<p style="text-align: right;">Page 18</p> <p>1 based upon my review of the documents that have been 2 available in this litigation or otherwise generally 3 available to me in my representation and statements 4 made by personnel at Nevada Agency and Transfer 5 Company to me. 6 Q. Okay. 7 A. At times those cross over. I have 8 independent knowledge of these documents from my own 9 review of them. To make statements about what NATCO 10 actually did to the extent I would have to confirm 11 what they did based upon representations that they 12 made to me, I'd have to invoke the attorney-client 13 privilege. 14 But I'll also state that for purposes of 15 accommodating these parties in court, NATCO is 16 willing to agree to a limited waiver in order to 17 allow that testimony to come in in a more 18 expeditious manner, if that's what -- if the parties 19 were willing to do that. It actually happens 20 Ms. Cardinalli is in the hallway, willing to confirm 21 a limited waiver and, hopefully, an order from the 22 Court or some statement from the Court indicating 23 that such a waiver would be effective generally for 24 purposes of communicating this information and</p>	<p style="text-align: right;">Page 19</p> <p>1 answering that question more directly and is not a 2 general waiver of the attorney-client privilege in 3 connection with my representation of NATCO. She can 4 confirm that NATCO's willing to do that, if we get 5 to that point. 6 Q. And I think we'll forge that river if need 7 be. If there's any question that the representation 8 needs to come on behalf of NATCO, we will cross that 9 ground. 10 A. I just -- I'm mindful of the distinction 11 and I'm making an attempt to testify in this regard. 12 So, to get back to your question, Did they 13 place the stop on it, my answer is I believe they 14 did and that is based on my review of documents. 15 Q. Would it also be based on the fact that 16 NATCO did reissue a stock certificate? 17 A. Again, based upon my review of the 18 documents, yes. 19 Q. Okay. And a stock certificate -- I believe 20 we can mention the stock certificate that's on 21 deposit with the court at present in their custody, 22 was that the reissued stock certificate? 23 A. No. That was the canceled stock 24 certificate.</p>
<p style="text-align: right;">Page 20</p> <p>1 Q. Okay. Excellent. 2 Ultimately in the context of your 3 representation of NATCO, you had to review certain 4 correspondence that was sent to you. If you could 5 turn to Exhibit 3, please. 6 Are you there, Mr. Walker? 7 A. Yes. I have it in front of me. 8 Q. Thank you. If you could tell me generally 9 who appears to be the sender and recipient and the 10 date of that letter. 11 A. This appears to be a letter from Ernesto A. 12 Alvarez, an attorney located in Florida. It's a 13 letter addressed to Nevada Agency and Transfer 14 Company dated October 30th, 2015. 15 Q. Have you seen this letter before, Mr. 16 Walker? 17 A. Yes, I have . 18 Q. Approximately when did you review this 19 letter in the context of your representation? 20 A. I would have reviewed it shortly after 21 NATCO received it. I'm not exactly sure what time 22 it was received on October 30th. I would have 23 either -- my recollection of that is it was either 24 late in the day, or probably was late in the day,</p>	<p style="text-align: right;">Page 21</p> <p>1 and I probably reviewed it either that evening or 2 over the weekend, would be the first time I read it 3 in detail. 4 Q. Okay. Taking a look at that first 5 paragraph, there are a few representations that I'll 6 ask you to garner from your review. 7 Can you see who Mr. Alvarez is indicating 8 whom he represents? 9 A. Yes. The letter indicates he represents 10 Weiser Asset Management LTD. 11 Q. You also see from the letter when Mr. 12 Alvarez is indicating that Mr. Skarpelos sold a 13 certain number of shares of Anavex to W.A.M. 14 A. Yes. The letter states -- does make that 15 statement. 16 Q. Are you able to see what date that is, Mr. 17 Walker? 18 A. According to Mr. Alvarez's letter, it was 19 July 12th, 2013. 20 Q. Thank you. About midway through that 21 paragraph there's a sentence that starts with 22 "Subsequently." 23 A. I see that. 24 Q. Okay. Can you review what on behalf of</p>

<p style="text-align: right;">Page 22</p> <p>1 Weiser Asset Management, now referred to as "Weiser"</p> <p>2 in this particular paragraph, what is allegedly</p> <p>3 presented to the transfer agent, presumably NATCO?</p> <p>4 A. Well, the letter indicates that Weiser</p> <p>5 delivered to NATCO a Stock Certificate 753 for</p> <p>6 6,633,332 shares of Anavex common stock.</p> <p>7 Q. Does it also indicate that a stock power</p> <p>8 executed in favor of Weiser was presented?</p> <p>9 A. Yes, it does. The second part of that</p> <p>10 sentence says that. That's accurate.</p> <p>11 Q. On the second paragraph do you see where it</p> <p>12 indicates that NATCO had informed, presumably</p> <p>13 Montello Law or Mr. Alvarez, that a stop -- or that</p> <p>14 certificate, rather, had been reported as lost?</p> <p>15 A. Yes. I see that appears to be the</p> <p>16 penultimate sentence in that second to last</p> <p>17 paragraph.</p> <p>18 Q. Mr. Walker, were you involved in informing</p> <p>19 Montello Law or Mr. Alvarez that it was reported as</p> <p>20 lost?</p> <p>21 A. No, I was not.</p> <p>22 Q. Okay. If you could flip further to Exhibit</p> <p>23 46 in that binder. Can you see what appears to be</p> <p>24 the sender, the recipient, the date of that letter?</p>	<p style="text-align: right;">Page 23</p> <p>1 A. Yes, I do.</p> <p>2 Q. Do you see where it indicates that it is a</p> <p>3 followup letter to October 30th, 2015,</p> <p>4 correspondence?</p> <p>5 A. Yes. This appears to be a letter from Mr.</p> <p>6 Alvarez following up on the previous letter, which</p> <p>7 we just discussed.</p> <p>8 Q. Were you individually in your capacity as</p> <p>9 an attorney for NATCO involved with issuing a stop</p> <p>10 on certificate 0753 by virtue of either the</p> <p>11 October 30th letter or this letter?</p> <p>12 A. No.</p> <p>13 Q. Okay. Please turn to Exhibit 47.</p> <p>14 A. Okay. I have 47 in front of me.</p> <p>15 Q. Would you do the same for this letter and</p> <p>16 indicate the sender, recipient, and date.</p> <p>17 A. The sender of this letter was me. This is</p> <p>18 a letter from -- a copy of a letter from me to Mr.</p> <p>19 Alvarez in response to his October 30th letter.</p> <p>20 Q. Mr. Walker, was this your first written</p> <p>21 correspondence to Mr. Alvarez in response to the</p> <p>22 aforementioned two letters?</p> <p>23 A. Yes, it was.</p> <p>24 Q. Okay. Can you indicate for us -- I guess</p>
<p style="text-align: right;">Page 24</p> <p>1 between the first two paragraphs of that letter --</p> <p>2 what it is that you are making a request of Mr.</p> <p>3 Alvarez at Montello Law of.</p> <p>4 A. My interpretation of his October 30th</p> <p>5 letter was Weiser Asset Management was asserting</p> <p>6 that it was what we used to call a bona fide</p> <p>7 purchaser, that is under the code an appropriate --</p> <p>8 well, an appropriate person or a protected person in</p> <p>9 connection with Certificate No. 753.</p> <p>10 And I was asking -- well, in the second</p> <p>11 paragraph here I'm asking for his factual basis for</p> <p>12 claiming that he's an appropriate person to issue a</p> <p>13 stop transfer order. And I apologize for -- the</p> <p>14 term "appropriate person" and "protected person,"</p> <p>15 aren't interchangeable. It's simply that a</p> <p>16 protected person is a subcategory of appropriate</p> <p>17 person for purposes of issuing a stop transfer</p> <p>18 order.</p> <p>19 So, the factual basis for Weiser Asset</p> <p>20 Management being a protected purchaser or</p> <p>21 appropriate person is what I was seeking here. I</p> <p>22 wanted to know the facts that would enable W.A.M. to</p> <p>23 have an effective stop transfer order.</p> <p>24 Q. Okay. Does your letter also request a copy</p>	<p style="text-align: right;">Page 25</p> <p>1 of Stock Certificate 0753 in it?</p> <p>2 A. Yes.</p> <p>3 Q. Does it also --</p> <p>4 A. Well --</p> <p>5 Q. I'm sorry.</p> <p>6 A. Let me correct that. Evidencing your</p> <p>7 client's presentment of Certificate 753 -- because</p> <p>8 his October 30th letter said it had been</p> <p>9 presented -- presentment is a term of art under the</p> <p>10 code and it is exceptionally important to transfer</p> <p>11 agents to establish the date of presentment because</p> <p>12 its duties under both the lost stock certificate</p> <p>13 section of the code and the section of the code to</p> <p>14 actually effective transfer are based upon</p> <p>15 presentment of the physical certificate.</p> <p>16 Until a physical certificate is actually</p> <p>17 presented to the transfer agent. Its duties don't</p> <p>18 kick in under the code in connection with either a</p> <p>19 stop transfer order or actually effecting a</p> <p>20 transfer.</p> <p>21 Q. Your recollection of having authored this</p> <p>22 letter, was presentment made to NATCO of that</p> <p>23 certificate as of the date that you wrote this</p> <p>24 letter?</p>

<p style="text-align: right;">Page 26</p> <p>1 A. No.</p> <p>2 Q. If appears as though you're also requesting</p> <p>3 any instruction your client submitted therewith.</p> <p>4 What kind of instruction would that have</p> <p>5 been, Mr. Walker?</p> <p>6 A. Instructions from an appropriate person are</p> <p>7 part of the requirements in order to effect a</p> <p>8 transfer by a stock transfer agent. So, we need</p> <p>9 written instructions from either the registered</p> <p>10 owner of the certificate or somebody who stands in</p> <p>11 the place of the registered owner. And at this</p> <p>12 point my review indicated that instructions had not</p> <p>13 been received by NATCO.</p> <p>14 Q. Okay. The tail end of your letter, Mr.</p> <p>15 Walker, towards the bottom you indicate that NATCO</p> <p>16 has contacted both Anavex and Mr. Skarpelos.</p> <p>17 Did you make that contact to Mr. Skarpelos</p> <p>18 or to Anavex?</p> <p>19 A. Personally I did not, no.</p> <p>20 Q. Okay. Flip just a couple pages there to</p> <p>21 Exhibit 48, please. By this point you know the</p> <p>22 drill, Mr. Walker.</p> <p>23 A. I do. I have Exhibit 48 in front of me.</p> <p>24 It appears to be a letter from W.A.M. addressed to</p>	<p style="text-align: right;">Page 27</p> <p>1 Nevada Agency dated November 12th, 2015, signed by</p> <p>2 a -- apparently, by a representative of Weiser Asset</p> <p>3 Management, Ltd.</p> <p>4 Do you want me to run with this? I can</p> <p>5 jump ahead and say it's my understanding that this</p> <p>6 was a letter of instruction from Weiser to NATCO</p> <p>7 regarding the disposition of Certificate 753.</p> <p>8 Q. Okay. Were you familiar -- or strike that.</p> <p>9 Do you recall whether this letter, Exhibit</p> <p>10 48, was accompanied by a stock certificate or a copy</p> <p>11 thereof?</p> <p>12 A. My review of the documents indicate that it</p> <p>13 was not. The stock certificate was received</p> <p>14 separately.</p> <p>15 Q. And looking at that second, I guess, full</p> <p>16 sentence of the letter that begins with "Please</p> <p>17 have," there appear to be two requests in here, my</p> <p>18 observation. "Please have the share certificate</p> <p>19 restrictions legend removed and transfer via DWAC."</p> <p>20 Beginning with the first statement of that</p> <p>21 letter, "have the share certificate legend removed,"</p> <p>22 Mr. Walker, what's your understanding of what that</p> <p>23 request is asking of NATCO?</p> <p>24 A. Well, the share certificate in question</p>
<p style="text-align: right;">Page 28</p> <p>1 bore restrictive legend. It bore restrictive legend</p> <p>2 because it was issued by Anavex without a</p> <p>3 registration statement and it was issued under an</p> <p>4 applicable exemption under federal securities law</p> <p>5 without a registration statement.</p> <p>6 So, when that happens, a physical stock</p> <p>7 certificate gets a restricted legend placed on it</p> <p>8 that gives notice to anybody who has the share that</p> <p>9 the shares have, in fact, not been registered and in</p> <p>10 order to engage in a transaction with those shares,</p> <p>11 an applicable exemption from registration from the</p> <p>12 U.S. securities laws has to be complied with.</p> <p>13 Generally speaking, to transfer stock that</p> <p>14 is restricted it either has to be transferred on a</p> <p>15 restricted basis between parties. If the legend's</p> <p>16 removed, there's a whole different process involved</p> <p>17 and a whole different set of requirements involved</p> <p>18 for legend removal from a stock certificate in order</p> <p>19 to effect a transfer.</p> <p>20 Q. So, if I understand correctly, Mr. Walker,</p> <p>21 if you owned stock with a restricted stock legend on</p> <p>22 it and I was going to take with that legend, there</p> <p>23 would be no necessity of removing that. However, if</p> <p>24 I wanted to transact that, perhaps, on a public</p>	<p style="text-align: right;">Page 29</p> <p>1 marketplace, there would be a requisite to have that</p> <p>2 restricted stock legend removed.</p> <p>3 A. There would be a series of requirements</p> <p>4 that you and I would have to jump through to show</p> <p>5 that it complied with the exemptions from</p> <p>6 registration.</p> <p>7 Q. And is the removal of a stock certificate's</p> <p>8 restricted legend also referred to as</p> <p>9 "dematerialization"?</p> <p>10 Have you heard that phrase?</p> <p>11 A. I have heard that phrase before. Generally</p> <p>12 speaking, in the world of stock transfer it really</p> <p>13 hasn't become a term of art. Stock transfer agents</p> <p>14 recognize that shares can be held either in physical</p> <p>15 form via stock certificates, such as in this case,</p> <p>16 or in electronic form.</p> <p>17 There are still substantial differences</p> <p>18 between the two and, for example, restricted shares</p> <p>19 would not have been subject to the type of</p> <p>20 electronic transfer that's requested in these</p> <p>21 instructions, which is probably why there was a</p> <p>22 request to remove the legend.</p> <p>23 Q. Well, let's jump to that a little bit here.</p> <p>24 The second part of that statement, as I see it, is a</p>

<p style="text-align: right;">Page 30</p> <p>1 request to transfer via DWAC.</p> <p>2 Mr. Walker, are you familiar with what that</p> <p>3 means?</p> <p>4 A. I should be. I'm familiar with the system.</p> <p>5 DWAC, deposit, withdrawal -- I can't remember what</p> <p>6 the "AC" stands for, but let me try to explain what</p> <p>7 it involves.</p> <p>8 In order to -- of course, we live in the</p> <p>9 modern age and most things are done electronically</p> <p>10 and that includes the transfer of securities between</p> <p>11 different owners. In order to do that, owners of</p> <p>12 stock that own their share in electronic form</p> <p>13 participate in what's known as the "FAST system"</p> <p>14 that the Depository Trust Company operates. The</p> <p>15 Depository Trust Company -- "DTC" as it's commonly</p> <p>16 referred to -- integral part of U.S. securities</p> <p>17 transactions and source of securities law.</p> <p>18 They run the electronic system that allows</p> <p>19 purchasers and sellers to transfer their ownership</p> <p>20 electronically. If a broker -- for example, if I</p> <p>21 own stock in a company, in Apple, and I wanted to</p> <p>22 sell those shares and I took them to my broker, my</p> <p>23 broker would be a participating member of the FAST</p> <p>24 system and could transfer my stock ownership.</p>	<p style="text-align: right;">Page 31</p> <p>1 If I had a certificate, I would give it to</p> <p>2 the broker, they would send it into the transfer</p> <p>3 agent, assuming there was no restricted legend on</p> <p>4 it. It then could be, I think, what's referred to</p> <p>5 as "dematerialized." The stock certificate would be</p> <p>6 canceled on the books and records of the corporation</p> <p>7 maintained by the transfer agent. The transfer</p> <p>8 agent's computer system would enter the FAST system</p> <p>9 and, for example, this would be the DWAC portion of</p> <p>10 that. I'll try to explain the two different sides</p> <p>11 of that.</p> <p>12 But the DWAC portion of it then would</p> <p>13 transfer my ownership of that stock, in the case of</p> <p>14 the DWAC system, to the street name of my broker, so</p> <p>15 it wouldn't be in my name. It would be in the</p> <p>16 broker's nominee name. For example, on these</p> <p>17 instructions, it's requested to send to State Street</p> <p>18 Bank. Technically the shares would be in the name</p> <p>19 of State Street Bank but State Street Bank, that</p> <p>20 ownership and its nominee name would be for the</p> <p>21 benefit of its client.</p> <p>22 There's a separate part of the FAST system</p> <p>23 separate from DWAC. It's called "DRS," where the</p> <p>24 same electronic transfer occurs. The only</p>
<p style="text-align: right;">Page 32</p> <p>1 difference is the shares are registered in the</p> <p>2 broker's account -- well, not in the broker's</p> <p>3 account -- in the underlying shareholder's account</p> <p>4 with the broker. So, in that case the electronic</p> <p>5 entry is for the individual or whoever the</p> <p>6 shareholder is and is actually in the shareholder's</p> <p>7 name as opposed to the nominee name of the broker.</p> <p>8 I hope that makes sense.</p> <p>9 Q. It does to me.</p> <p>10 Related to this particular request and in</p> <p>11 the context of what you just indicated, if we're</p> <p>12 converting something to electronic format, how does</p> <p>13 it work in a situation where we've got a Share</p> <p>14 Certificate 0753 for 6.6 million shares, however the</p> <p>15 initial request that we went over in Exhibit 3, I</p> <p>16 believe, was requesting or indicating a sale had</p> <p>17 occurred for 3.3?</p> <p>18 To rephrase that and put it more</p> <p>19 succinctly, if I have a share certificate that</p> <p>20 evidences 100 shares and I'm asking NATCO to</p> <p>21 facilitate a transfer effectuating 50 shares of</p> <p>22 that, what are the requisites behind that kind of</p> <p>23 transaction and where does the remainder go?</p> <p>24 THE COURT: Don't answer the question.</p>	<p style="text-align: right;">Page 33</p> <p>1 MR. NORK: Your Honor, we have now crossed</p> <p>2 into the realm of expert testimony. Again, Mr.</p> <p>3 Walker is not an employee of NATCO but an attorney</p> <p>4 for NATCO, so there's a foundation issue.</p> <p>5 Secondly and more importantly, he's been</p> <p>6 asked a hypothetical question to give his expert</p> <p>7 opinion on how the stock is going to be issued in an</p> <p>8 electronic form. There has been no expert</p> <p>9 designation, so I object.</p> <p>10 THE COURT: Mr. Adams, in my review of the</p> <p>11 file, there's been no designation of Mr. Walker as</p> <p>12 an expert witness.</p> <p>13 What's your response to the objection?</p> <p>14 MR. ADAMS: I'd be happy to withdraw the</p> <p>15 question, your Honor. Not crucial.</p> <p>16 THE COURT: I'll sustain the objection.</p> <p>17 Next question.</p> <p>18 BY MR. ADAMS:</p> <p>19 Q. With regard to the removal of the share</p> <p>20 certificate restriction, is that something you are</p> <p>21 familiar with?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. What applicable law would you be</p> <p>24 required to follow if you were effectuating the</p>

<p style="text-align: right;">Page 34</p> <p>1 removal of a restricted stock legend?</p> <p>2 A. I review legend removal requests for NATCO</p> <p>3 on a regular basis, I would say almost weekly. And</p> <p>4 legend removal each one is going to be different</p> <p>5 depending on who is requesting the removal, whether</p> <p>6 the individual is an affiliate of the company or not</p> <p>7 and a review of how long they've held the shares.</p> <p>8 But, generally speaking, what you're</p> <p>9 looking for is compliance with an applicable</p> <p>10 exemption from registration of the transaction.</p> <p>11 This is a transactional exemption that we're talking</p> <p>12 about. And, generally speaking, these are done in</p> <p>13 compliance with the Safe Harbor provisions of Rule</p> <p>14 144 propagated by the Securities and Exchange</p> <p>15 Commission.</p> <p>16 When shares are -- in this circumstance the</p> <p>17 registered owner of the shares was known to be an</p> <p>18 affiliate of the issuer and the requirements for the</p> <p>19 removal of a legend from affiliate shares are</p> <p>20 significantly -- well, they are different than the</p> <p>21 requirements for removal of a legend from shares of</p> <p>22 a non-affiliate.</p> <p>23 So, there need to be representations</p> <p>24 regarding the status of the parties involved,</p>	<p style="text-align: right;">Page 35</p> <p>1 whether they're affiliates of the company or not.</p> <p>2 Not only does the person who is the registered owner</p> <p>3 of the shares, their status as affiliated is</p> <p>4 important, but it's important if the party</p> <p>5 purchasing the shares is also an affiliate. This is</p> <p>6 done generally via a legal opinion written by an</p> <p>7 attorney for one of the parties requesting the</p> <p>8 transfer. And I'll generally get a legal opinion</p> <p>9 and submit it with a legend removal request and then</p> <p>10 I'll review the legal opinion for compliance from</p> <p>11 NATCO's perspective to see if it accurately, you</p> <p>12 know -- if it enumerates the underlying facts and</p> <p>13 then at least in our view accurately describes the</p> <p>14 available exemption from registration for the</p> <p>15 transaction.</p> <p>16 Q. Your familiarity with the file in the</p> <p>17 context of your representation of NATCO, I believe</p> <p>18 you indicated a little earlier this morning that Mr.</p> <p>19 Skarpelos was a director for Anavex.</p> <p>20 Is that your understanding?</p> <p>21 A. Yes.</p> <p>22 Q. As a director of Anavex would he constitute</p> <p>23 as an insider --</p> <p>24 A. Yes.</p>
<p style="text-align: right;">Page 36</p> <p>1 Q. -- for the purposes you just mentioned?</p> <p>2 A. Yes. I mean, he directly falls within the</p> <p>3 definition of an affiliate under the securities</p> <p>4 laws.</p> <p>5 Q. And is there a waiting period if Mr.</p> <p>6 Skarpelos wanted to transact his stock on a public</p> <p>7 marketplace?</p> <p>8 A. Affiliates are not prohibited from selling</p> <p>9 stock. If they sell it into the public market,</p> <p>10 their requirements for doing so are much more</p> <p>11 restrictive. There's volume requirements, there's</p> <p>12 documentation requirements. There's a requirement</p> <p>13 for, you know, a regular broker-type transaction</p> <p>14 where stock is sold into the market.</p> <p>15 And that's confirmed with the execution of</p> <p>16 a Form 144 that it gets filed with the Securities</p> <p>17 and Exchange Commission. So, affiliates are not</p> <p>18 prevented from selling stock. If they become</p> <p>19 non-affiliates, those -- well, requirements for</p> <p>20 non-affiliates are simply not as restrictive. The</p> <p>21 holding period is shorter for the purpose of all</p> <p>22 those requirements I just discussed in terms of</p> <p>23 selling stock at certain volume levels or providing</p> <p>24 additional documentation.</p>	<p style="text-align: right;">Page 37</p> <p>1 If you're not an affiliate, you don't</p> <p>2 always have to comply with those requirements,</p> <p>3 especially if you've held the shares for more than a</p> <p>4 year. That's kind of a big deal in terms of these</p> <p>5 reviews. And people move in and out of affiliate</p> <p>6 status, directors resign and officers resign from</p> <p>7 corporations. And there's a waiting period that</p> <p>8 they have to undergo before they can claim to be</p> <p>9 non-affiliates and sell under the non-affiliate</p> <p>10 requirements. So, all those little details are the</p> <p>11 type of things that transfer agents are looking at</p> <p>12 whenever restricted stock is involved.</p> <p>13 Q. And it would have been a necessity, if I</p> <p>14 understand correctly -- I'll rephrase in a</p> <p>15 non-leading fashion.</p> <p>16 Would it have been a necessity of</p> <p>17 understanding who the purchaser is?</p> <p>18 A. Yes.</p> <p>19 Q. In other words, to ensure that they are not</p> <p>20 an affiliate, amongst other things?</p> <p>21 A. Amongst other things. But at a basis -- I</p> <p>22 mean, looking at this and without any other</p> <p>23 information regarding a conflict over the nature of</p> <p>24 the requested transfer, if there were no conflict</p>

<p style="text-align: right;">Page 38</p> <p>1 claims here and I received this request for legend 2 removal, the first thing I would say is, well, you 3 know, besides the fact that you haven't submitted 4 the fee to the transfer agent, there's no legal 5 opinion here. You need to provide -- in fact, I 6 believe the restrictive legend actually says that a 7 legal opinion must be provided, a legal opinion 8 acceptable to the issuer. That's the standard 9 restrictive legend that's stamped on restricted 10 stock.</p> <p>11 Q. Okay. Moving on, Mr. Walker, we'll go to 12 Exhibit 49. If you could indicate who appears to be 13 the sender, recipient, and date of this 14 correspondence.</p> <p>15 A. This is -- appears to be a copy of a letter 16 from Bernard Pinsky, an attorney with Clark Wilson 17 LLP out of Vancouver, British Columbia, Canada. 18 It's addressed to NATCO dated November 12th, 2015, 19 its contents appear to address Mr. Alvarez's 20 October 30th, 2015, letter, and it indicates that 21 Mr. Pinsky is acting -- or has been retained as 22 Mr. Skarpelos' counsel in that regard.</p> <p>23 Q. Do you see how right below the date that 24 you noted Mr. Walker, there appears to have been</p>	<p style="text-align: right;">Page 39</p> <p>1 sent via email -- is that Mr. Alvarez's email that 2 you had seen on the prior correspondence that we 3 reviewed?</p> <p>4 A. I believe so. I have not compared it to 5 see if it is letter for letter the exact same email 6 address, but there's an email address that purports 7 to be an email address for Mr. Alvarez.</p> <p>8 Q. Okay. In your review of this document in 9 the context of your representation of NATCO, did you 10 interpret Mr. Pinsky's representations to indicate 11 that Mr. Skarpelos did not agree with the request 12 being made by Montello Law?</p> <p>13 A. I viewed this as notice of Mr. Skarpelos' 14 claims to Certificate 753 and his view that Weiser 15 Asset Management did not have a claim. It was clear 16 to me from this letter that there were disputed 17 claims to ownership of that stock certificate.</p> <p>18 Q. Thank you. If you could flip to Exhibit 19 54, Mr. Walker. If you could indicate the date on 20 this letter, the intended recipient and sender.</p> <p>21 A. Yes. It's a letter addressed to Nevada 22 Agency and Transfer Company. It appears to be from 23 a Mr. Nick Boutsalis of Primoris Group. It's dated 24 November 13th, 2015. There's also a received stamp</p>
<p style="text-align: right;">Page 40</p> <p>1 from Nevada Agency on there. I think we've 2 discussed that before. This looks to me to be a 3 copy of the stamp that they use when they receive 4 correspondence. It indicates it would have been 5 received by NATCO on November 16th, 2015.</p> <p>6 Q. Mr. Walker, this letter indicates, as you 7 just indicated, that it's accompanied with several 8 documents.</p> <p>9 A. Yes.</p> <p>10 Q. If you look at the document which has Bates 11 stamp number PID 000047, that letter indicates that 12 an original stock certificate was provided to NATCO. 13 Is that your recollection?</p> <p>14 A. My review of the file and the documents in 15 question, yes. This letter -- accompanying this 16 letter was the original stock certificate, which I 17 deposited into court on Monday.</p> <p>18 Q. Okay. Letter also indicates that a 19 notarized power of attorney, which for the purposes 20 of consistency here, we've also referred to as a 21 "stock power." And I believe that's on Bates last 22 two digits 48 after that stock certificate.</p> <p>23 Do you see that, sir?</p> <p>24 A. I have that in front of me.</p>	<p style="text-align: right;">Page 41</p> <p>1 Q. Was this the stock power that was provided 2 in -- I guess as an enclosure to Mr. Boutsalis' 3 letter?</p> <p>4 A. This was an enclosure in the letter 5 received by NATCO.</p> <p>6 Q. Okay. Just one more doc here that 7 accompanied Mr. Boutsalis's letter, Bates 46, which 8 appears to be a copy of a passport.</p> <p>9 A. I see that. I have that in front of me as 10 part of Exhibit 54. It's the second page. It's a 11 copy of what appears to be a passport.</p> <p>12 Q. In your review of the file, was this the 13 copy that was provided and accompanied Mr. 14 Boutsalis' letter?</p> <p>15 A. Yes. The three pages that you've described 16 with Bates 46, 47 and 48, those documents were 17 accompanying the letter, which is the first page of 18 Exhibit 54 which NATCO received, apparently, 19 November 16th, 2015.</p> <p>20 Q. Are you able to see -- I'm hopeful that 21 your copy is better than my own. Are you able to 22 see from the copy of that passport of Mr. Skarpelos 23 when the expiration date was?</p> <p>24 A. Hmm.</p>

<p style="text-align: right;">Page 42</p> <p>1 Q. I concur. It is difficult to see. There's</p> <p>2 an additional copy of this passport that was</p> <p>3 admitted into evidence. I'll have you turn to</p> <p>4 Exhibit 8, specifically Bates Weiser 000364.</p> <p>5 A. It's in front of me. Assuming that this is</p> <p>6 a copy of the same page of the passport, it's a</p> <p>7 better photocopy of the document it represents to be</p> <p>8 and they appear to be somewhat similar. Yeah, this</p> <p>9 is much easier to read.</p> <p>10 Q. Are you able to determine -- granted --</p> <p>11 well, I'll go ahead and ask you, Do you know how to</p> <p>12 speak or read Greek?</p> <p>13 A. I do not.</p> <p>14 Q. Okay. Are you able to determine from your</p> <p>15 review here, though, when that document expires,</p> <p>16 when Mr. Skarpelos' passport expires?</p> <p>17 A. There appears to be an indication on here,</p> <p>18 I assume it's an abbreviation for expire, looks like</p> <p>19 "July 3" and then, unfortunately, it's a little</p> <p>20 difficult to read. It looks like it might be "11."</p> <p>21 Q. Okay. Mr. Walker, in your review of the</p> <p>22 file, are you aware of any additional or</p> <p>23 supplemental documentation of Mr. Skarpelos'</p> <p>24 identification being provided to NATCO?</p>	<p style="text-align: right;">Page 43</p> <p>1 A. No. The previous exhibit -- I'm sorry.</p> <p>2 Can you help me with the number --</p> <p>3 Q. That would have been 54, sir.</p> <p>4 A. -- was the only documentation provided to</p> <p>5 NATCO that I reviewed that appeared to be an attempt</p> <p>6 to replace the requirement for a medallion guarantee</p> <p>7 signature.</p> <p>8 Q. Okay. We may come back to this document</p> <p>9 again, but, Mr. Walker, for the time being let's</p> <p>10 flip to Exhibit 55, please.</p> <p>11 A. I have it in front of me.</p> <p>12 Q. Okay. Please indicate the sender,</p> <p>13 recipient, and date.</p> <p>14 A. A letter from Mr. Alvarez dated</p> <p>15 November 16th, 2015, addressed to me.</p> <p>16 Q. Okay. And did you receive this letter, Mr.</p> <p>17 Walker?</p> <p>18 A. Yes, I did.</p> <p>19 Q. Okay. You could see from that first full</p> <p>20 paragraph whom Mr. Alvarez is indicating that a</p> <p>21 stock power, which was executed by Mr. Skarpelos,</p> <p>22 was made in favor of.</p> <p>23 A. Stock power executed by Mr. Skarpelos in</p> <p>24 favor of Weiser Asset Management. Yes, it's my</p>
<p style="text-align: right;">Page 44</p> <p>1 understanding that Mr. Alvarez was representing</p> <p>2 Weiser Asset Management and was asserting Weiser</p> <p>3 Asset Management's claim.</p> <p>4 Q. Okay. The letter from Mr. Alvarez appears</p> <p>5 to indicate that certain documents were delivered to</p> <p>6 NATCO. Are you able to see from that letter what</p> <p>7 documents Mr. Alvarez is purporting were delivered</p> <p>8 to NATCO?</p> <p>9 A. I don't -- well, at this point I think Mr.</p> <p>10 Alvarez is indicating that he's confirmed that</p> <p>11 Anavex, the issuer, delivered to NATCO Stock</p> <p>12 Certificate 753 and that we -- by "we" I'm assuming</p> <p>13 he means he and his client, W.A.M. -- previously</p> <p>14 provided the transfer agent with an instruction</p> <p>15 letter from Weiser that the transfer agent register</p> <p>16 Weiser's ownership of the 3,316,666 shares of Anavex</p> <p>17 common stock.</p> <p>18 The second paragraph indicates Weiser has</p> <p>19 presented an original certificate and claims</p> <p>20 protected purchaser status under the Uniform Code.</p> <p>21 Q. Okay. Skipping for a moment to the</p> <p>22 presentment of the original stock certificate and</p> <p>23 looking at Mr. Alvarez's indication that a stock</p> <p>24 power was transmitted to NATCO, was a stock power or</p>	<p style="text-align: right;">Page 45</p> <p>1 power of attorney in favor of Weiser Asset</p> <p>2 Management Limited presented to NATCO in the</p> <p>3 correspondence that we've reviewed thus far?</p> <p>4 A. Well, there's one that purports to be. I'm</p> <p>5 not sure that I would call it that.</p> <p>6 Q. We'll flip back here to Exhibit 54, the</p> <p>7 very last page or last document that accompanied</p> <p>8 what we just got done reviewing with Mr. Boutsalis'</p> <p>9 letter, and the Bates is last two digits 48 entitled</p> <p>10 "Power of Attorney to Transfer Bonds or Shares."</p> <p>11 Do you see that?</p> <p>12 A. I have it in front of me.</p> <p>13 Q. Do you see who it is in favor of?</p> <p>14 A. Well, there's a signature on this document,</p> <p>15 which would otherwise without the signature be a</p> <p>16 blank stock power, generally what is -- you've</p> <p>17 referred to as "stock power," and I know what you</p> <p>18 mean by that. It's a general document that you</p> <p>19 would see in the securities industry.</p> <p>20 Q. Okay.</p> <p>21 A. With a signature on it, it becomes an</p> <p>22 integral part of the transfer process. That</p> <p>23 signature is awfully important as part of that</p> <p>24 process. From this I don't know whose signature</p>

<p style="text-align: right;">Page 46</p> <p>1 that is.</p> <p>2 Q. Does it appear as though Weiser Asset</p> <p>3 Management is written in as, frankly, the name of</p> <p>4 the transferee or any other indication that this</p> <p>5 power of attorney, this stock power, is in favor of</p> <p>6 Weiser Asset Management?</p> <p>7 A. No. The stock power's blank. It would be</p> <p>8 -- if this was an actual endorsement, this would be</p> <p>9 what we would refer to as a "general endorsement" as</p> <p>10 opposed to a special endorsement. No party is</p> <p>11 designated as the transferee on this document.</p> <p>12 Q. Okay. Mr. Walker, I'll have you turn to</p> <p>13 Exhibit 35, please.</p> <p>14 A. I have 35 in front of me.</p> <p>15 Q. Is this a power of attorney, a stock power</p> <p>16 akin to what we just looked at?</p> <p>17 A. It purports to be, yes. It looks like the</p> <p>18 same form that has been filled out with information</p> <p>19 and bears what may be signatures.</p> <p>20 Q. And do you see who the name of the</p> <p>21 transferee is on this particular form, sir?</p> <p>22 A. Yes. The transferee name is filled out on</p> <p>23 this one and it says "Weiser Bahamas LTD." The word</p> <p>24 "Bahamas" is actually in parentheses.</p>	<p style="text-align: right;">Page 47</p> <p>1 Q. Not Weiser Asset Management.</p> <p>2 A. That's correct.</p> <p>3 Q. When was the first time you received this,</p> <p>4 Mr. Walker?</p> <p>5 A. I received this in February of 2016. It</p> <p>6 was sent to me in an email from Mr. Nork.</p> <p>7 Q. Was this particular power of attorney in</p> <p>8 favor of Weiser Bahamas Limited presented in -- as</p> <p>9 an enclosure, as a supplement to Exhibit 54, the</p> <p>10 letter from Mr. Boutsalis that we looked at?</p> <p>11 A. No.</p> <p>12 Q. Was it sent as a supplement or</p> <p>13 accompaniment to the letter from Mr. Alvarez,</p> <p>14 Exhibit 55?</p> <p>15 A. No.</p> <p>16 Q. From your review of the file, Mr. Walker,</p> <p>17 is it fair to say that the sole stock power</p> <p>18 presented to NATCO was the blank power that we</p> <p>19 looked at that was accompanying Exhibit 54?</p> <p>20 A. Well, I --</p> <p>21 Q. And I'll rephrase.</p> <p>22 A. The one that purports to be a stock power.</p> <p>23 I guess I'd have to answer no because I don't</p> <p>24 believe that that stock power appropriately --</p>
<p style="text-align: right;">Page 48</p> <p>1 executed stock power as well.</p> <p>2 But I can say that that document, 54, was</p> <p>3 delivered to NATCO based upon my review in November</p> <p>4 of 2015 and the purported stock power that is</p> <p>5 represented by Exhibit 35 was first seen by a</p> <p>6 representative of NATCO, that is, their attorney me,</p> <p>7 in February of 2016.</p> <p>8 Q. Okay. In that same vein, Mr. Walker,</p> <p>9 please flip to Exhibit 30 for me.</p> <p>10 A. I have 30 in front of me.</p> <p>11 Q. Do you see what the title is?</p> <p>12 A. "Stock Sale and Purchase Agreement."</p> <p>13 Q. Okay. When was the first time that you saw</p> <p>14 this document in its form as it exists here in your</p> <p>15 representation of NATCO?</p> <p>16 A. I believe the first time I saw this</p> <p>17 document was, again, in February of 2016.</p> <p>18 Q. Okay. It wasn't an attachment to the</p> <p>19 aforementioned letters from Mr. Alvarez?</p> <p>20 A. No, it wasn't.</p> <p>21 Q. It wasn't an attachment to the</p> <p>22 correspondence from Mr. Boutsalis?</p> <p>23 A. No, it was not.</p> <p>24 Q. Okay. I'll have you jump back and forth</p>	<p style="text-align: right;">Page 49</p> <p>1 between Exhibit 30 and Exhibit 35.</p> <p>2 A. Okay. I have those two tabs.</p> <p>3 Q. On Exhibit 30, the Purchase and Sale</p> <p>4 Agreement, do you see the date on that, sir?</p> <p>5 A. In the -- beginning first paragraph of the</p> <p>6 agreement says that "This agreement is dated as of</p> <p>7 July 5th, 2013."</p> <p>8 Q. And then flipping quickly to Exhibit 35, do</p> <p>9 you see the date on that stock power, sir?</p> <p>10 A. It purports to be dated July 12th, 2013.</p> <p>11 Q. Excellent. On both documents, both Exhibit</p> <p>12 30 and Exhibit 35, Mr. Walker, do you see on 30 the</p> <p>13 name of the buyer and on the third page of that</p> <p>14 document again the name of the buyer?</p> <p>15 A. The first paragraph of No. 30, the Stock</p> <p>16 Sale and Purchase Agreement identifies the buyer as</p> <p>17 "Weiser Ltd." I think the signature line is</p> <p>18 different, however.</p> <p>19 Q. What do you see on the signature line, Mr.</p> <p>20 Walker?</p> <p>21 A. It says "Weiser Bahamas Ltd."</p> <p>22 Q. Okay. And then on 35 for the power of</p> <p>23 attorney, the name of the transferee again, sir?</p> <p>24 A. "Weiser Bahamas Ltd."</p>

<p style="text-align: right;">Page 50</p> <p>1 Q. Do you recall -- otherwise we can certainly</p> <p>2 take a look at it -- but the aforementioned</p> <p>3 correspondence from Mr. Alvarez and Mr. Boutsalis</p> <p>4 indicated that they were representing the interests</p> <p>5 of which entity?</p> <p>6 A. Weiser Asset Management.</p> <p>7 Q. Okay. Not Weiser Bahamas Limited.</p> <p>8 A. Correct.</p> <p>9 Q. Not Weiser Limited.</p> <p>10 A. Correct.</p> <p>11 Q. Okay.</p> <p>12 A. Well, let me correct that. The</p> <p>13 October 30th letter, if I remember, may have</p> <p>14 abbreviated Weiser Asset Manager as "Weiser," but it</p> <p>15 didn't -- I guess the answer still stands that it</p> <p>16 didn't say that it represented Weiser Ltd.</p> <p>17 Q. And that October 30th letter that you</p> <p>18 referred to is Exhibit 3, Mr. Walker. And I will</p> <p>19 simply point out -- and you're welcome, to take a</p> <p>20 look at it -- but, yes, "Weiser Asset Management</p> <p>21 Limited, a Bahamas company," in parens, "Weiser."</p> <p>22 A. Correct. Maybe I was being overly cautious</p> <p>23 because throughout the letter Mr. Alvarez simply</p> <p>24 refers to his client as "Weiser."</p>	<p style="text-align: right;">Page 51</p> <p>1 Q. Are you aware of an entity named "Weiser</p> <p>2 Capital"?</p> <p>3 A. I'm familiar that such an entity exists.</p> <p>4 Q. Okay. Are you aware of anything in the</p> <p>5 context of your involvement in this suit where</p> <p>6 Weiser Bahamas Limited and Weiser Capital were used</p> <p>7 interchangeably?</p> <p>8 A. In connection with this transaction, no.</p> <p>9 Q. Okay. So, in your opinion as a practicing</p> <p>10 attorney, does it appear as though Weiser Asset</p> <p>11 Management, Weiser Bahamas Limited, and Weiser</p> <p>12 Capital are three distinct business entities?</p> <p>13 MR. NORK: Objection, calls for an expert</p> <p>14 conclusion.</p> <p>15 MR. ADAMS: Okay. I'll strike that.</p> <p>16 THE COURT: I'll sustain the objection.</p> <p>17 BY MR. ADAMS:</p> <p>18 Q. When you received the aforementioned</p> <p>19 correspondence as Exhibit 35 that we looked at and</p> <p>20 Exhibit 30, the filled-out Purchase and Sale</p> <p>21 Agreement, the filled-out stock power, at that point</p> <p>22 you had already commenced litigation, meaning you</p> <p>23 had filed your compliant for interpleader.</p> <p>24 Is that right?</p>
<p style="text-align: right;">Page 52</p> <p>1 A. Correct.</p> <p>2 Q. When you received that correspondence, what</p> <p>3 action did you take thereafter in the context of</p> <p>4 this litigation? And nothing internal, of course.</p> <p>5 A. No. In fact, these actions are really</p> <p>6 actions that were taken between counsel in this</p> <p>7 case. I received the documents which are No. 30 and</p> <p>8 35 from Mr. Nork in response to an email I sent him</p> <p>9 regarding his client's answer to the original</p> <p>10 interpleader.</p> <p>11 I think I may have had that answer</p> <p>12 scheduled for one day and he had scheduled for</p> <p>13 another. I was checking with him to make sure he</p> <p>14 was going to file an answer because the date I had</p> <p>15 had come and gone. I knew he was on vacation. I</p> <p>16 wanted to extend the courtesy of asking, Are you</p> <p>17 going to file an answer? He pointed out he had it</p> <p>18 calendared differently, and that was fine. There</p> <p>19 was no problem with that, just answer as you have it</p> <p>20 calendared.</p> <p>21 But also indicated that it had come to his</p> <p>22 attention that, perhaps, the appropriate party or</p> <p>23 party that would be making a claim to these shares</p> <p>24 was Weiser Bahamas Ltd. and forwarded these</p>	<p style="text-align: right;">Page 53</p> <p>1 documents to me and invited me to amend the</p> <p>2 complaint or not. If I wanted to allow the</p> <p>3 complaint to stand, he would simply answer it as it</p> <p>4 was.</p> <p>5 And I believe my response to him was, Well,</p> <p>6 look, it's an interpleader action. I'd much rather</p> <p>7 have the parties, anybody making a claim make a</p> <p>8 claim and get it resolved so I don't have to do this</p> <p>9 again.</p> <p>10 I believe I forwarded correspondence to</p> <p>11 Mr. Murtha, counsel for Mr. Skarpelos on this case</p> <p>12 as well, and indicated that Mr. Nork had contacted</p> <p>13 me and had opened the invitation to amend. And I</p> <p>14 don't believe Mr. Murtha had an objection. I</p> <p>15 forwarded these documents. I just forwarded Mr.</p> <p>16 Nork's email to Mr. Murtha.</p> <p>17 And thereafter the original complaint in</p> <p>18 this matter was, in fact, amended. An amended</p> <p>19 complaint was filed that indicated that Weiser</p> <p>20 Bahamas Ltd. also claimed an interest in Certificate</p> <p>21 753.</p> <p>22 THE COURT: Mr. Walker, if I can just get a</p> <p>23 clarifying answer from you regarding your testimony.</p> <p>24 So, the original complaint was filed November 18th,</p>

<p style="text-align: right;">Page 54</p> <p>1 2015. That's when you filed your interpleader 2 action with the court. 3 THE WITNESS: Correct. 4 THE COURT: As a result of that filing of 5 the complaint in mid November of 2015, you had some 6 conversations with Mr. Nork where Mr. Nork indicated 7 that you might not have the correct parties or not 8 all of the necessary parties in the original 9 complaint. 10 THE WITNESS: I'd have to go back and look 11 at his email to me to see how he phrased it. It was 12 words to that effect, your Honor, whether it was -- 13 I've come to learn that an additional party may have 14 interest or that this is the more appropriate party. 15 I'm paraphrasing here, and without the email in 16 front of me, I don't want to commit Mr. Nork to one 17 statement or another. 18 But the point was, look, there's an 19 additional property party that probably should be 20 included here. Why don't you consider amending so 21 we can have it all. 22 THE COURT: I'll interrupt you. The 23 original parties you identified in the November 18th 24 complaint were Weiser Asset Management Limited, a</p>	<p style="text-align: right;">Page 55</p> <p>1 Bahamas company, and Athanasios Skarpelos, an 2 individual. So, then, as a result of those 3 conversations with Mr. Nork, you were made aware -- 4 and correct me if I'm wrong -- that there may be 5 additional people that you need to include and then 6 the extension of -- or the agreement was you could 7 file an amended complaint. 8 The amendment complaint was filed 9 April 29th, 2016, and the name Weiser Asset 10 Management Limited, a Bahamas company, Weiser paren 11 Bahamas, closed paren, Limited, a Bahamas company, 12 and Athanasios Skarpelos, an individual. Is that -- 13 THE WITNESS: I think that's an accurate 14 summary, your Honor. 15 THE COURT: Okay. I just want to make sure 16 I'm understanding what you're saying correctly. Go 17 ahead. 18 And, again, in that interim you said that 19 -- I have to go back and look at my notes -- but in 20 February 2016 Mr. Nork provided you Exhibits 30 and 21 35, which indicated there might be a different party 22 that you need to name. So, that was the evidence of 23 that additional party you needed to be concerned 24 about.</p>
<p style="text-align: right;">Page 56</p> <p>1 THE WITNESS: I took that as him saying 2 yes, as part of my -- and I think in that email he 3 said something about his preparation of the answer 4 he had learned this information and was providing it 5 to me, something along those lines. 6 THE COURT: Thank you. Go ahead, Mr. 7 Adams. 8 BY MR. ADAMS: 9 Q. After you received the correspondence from 10 Mr. Nork and you looked at Exhibit 30, now 11 filled-out Purchase and Sale Agreement, a filled-out 12 stock power both in favor of Weiser Bahamas Limited, 13 having received the correspondence thus far from Mr. 14 Alvarez repeatedly indicating representation of 15 Weiser Asset Management, what ultimately led to your 16 decision to file an interpleader action? 17 A. Well, I had not received these documents 18 when I filed the interpleader action, 30 and 35. 19 What I had received or the other correspondence we 20 talked about, the correspondence from Mr. Pinsky in 21 particular outlining Mr. Skarpelos' position and, of 22 course, the correspondence from Mr. Alvarez 23 outlining Weiser's position. 24 It could not have been more clear that</p>	<p style="text-align: right;">Page 57</p> <p>1 there were conflicting claims being made to the same 2 shares and that Nevada Agency was simply not in a 3 position to resolve those claims. It was the exact 4 type of factual scenario meant to be resolved by an 5 interpleader action in my nonexpert opinion. 6 Q. Thank you, Mr. Walker. 7 THE COURT: The record should reflect 8 everyone in the room chuckled. 9 Well done, Mr. Walker. 10 THE WITNESS: Thank you, your Honor. 11 MR. ADAMS: No further questions. 12 THE COURT: One moment. You can sit down, 13 Mr. Adams. Go ahead, Mr. Nork. Thank you for your 14 patience. 15 MR. NORK: Sure, your Honor. 16 CROSS-EXAMINATION 17 BY MR. NORK: 18 Q. Good morning, Mr. Walker. How are you? 19 A. Morning fine. 20 Q. Turn, please, to Exhibit 13. 21 A. I have 13. 22 Q. Okay. I just want to make sure I heard 23 your testimony correctly. This is -- this form, a 24 corporate indemnity form, is this one that's</p>

<p style="text-align: right;">Page 58</p> <p>1 prepared by NATCO, the blank form?</p> <p>2 A. The blank form is -- yeah, was a NATCO form</p> <p>3 that we had available. So, I mean, you can see the</p> <p>4 spaces for blanks for information to be filled in.</p> <p>5 NATCO would provide this form to the individual</p> <p>6 wanting to fill it out.</p> <p>7 Q. And there's a line cross the middle about</p> <p>8 two-thirds the way down on the first page. Right</p> <p>9 below it says "and it further be resolved that,</p> <p>10 should the original certificate ever be properly</p> <p>11 presented for transfer, NATCO is hereby instructed</p> <p>12 to transfer and reissue such certificate and the</p> <p>13 company agrees it would take the appropriate actions</p> <p>14 in regards to such certificate under the Uniform</p> <p>15 Commercial Code and Securities Act."</p> <p>16 Do you see that?</p> <p>17 A. I see that. Important paragraph.</p> <p>18 Q. I'm sorry?</p> <p>19 A. It's an important paragraph for NATCO.</p> <p>20 Q. I agree. With that paragraph in mind, can</p> <p>21 you turn, please, to your letter, Exhibit 47.</p> <p>22 So, you've already testified that you had</p> <p>23 received the letter from Mr. Alvarez and your</p> <p>24 response is this letter, Exhibit 47, correct?</p>	<p style="text-align: right;">Page 59</p> <p>1 A. Correct.</p> <p>2 Q. And you say, "Please provide me quote with</p> <p>3 copies of the documents evidencing your client's</p> <p>4 presentment of Certificate No. 753 as referenced in</p> <p>5 your letter including a copy of Certificate 0753 and</p> <p>6 any instructions your client submitted therewith."</p> <p>7 A. Correct.</p> <p>8 Q. And that's what you were asking for because</p> <p>9 that was required under the corporate indemnity,</p> <p>10 correct?</p> <p>11 A. Well, that and NATCO's duty to effectuate</p> <p>12 any replacement stock certificate pursuant to that</p> <p>13 indemnity or pursuant to the protected purchaser</p> <p>14 provision of the UCC is premised on presentment.</p> <p>15 Q. Okay. So, you're asking for presentment</p> <p>16 and letters of instructions, correct?</p> <p>17 A. Correct.</p> <p>18 Q. All right. Then Exhibit 48 purports to be</p> <p>19 letters of instruction, correct?</p> <p>20 A. Correct.</p> <p>21 Q. And then Exhibit 54 that is the delivery of</p> <p>22 the stock certificate, correct?</p> <p>23 A. That is correct.</p> <p>24 Q. Now, your letter's November 3rd, the</p>
<p style="text-align: right;">Page 60</p> <p>1 letter of instruction is November 12th, and the</p> <p>2 delivery of the original stock was received,</p> <p>3 apparently, by NATCO November 16th, correct?</p> <p>4 A. Correct.</p> <p>5 Q. Now, in the interim you had received a</p> <p>6 letter from Mr. Pinsky, correct, November 12th,</p> <p>7 Exhibit 49?</p> <p>8 A. Correct.</p> <p>9 Q. And that's the letter that says, We,</p> <p>10 Anavex, dispute Weiser's claim to the stock,</p> <p>11 correct?</p> <p>12 A. I think he was representing Mr. Skarpelos,</p> <p>13 but it says what it says.</p> <p>14 Q. You are correct. I stand corrected. It</p> <p>15 says, "Mr. Skarpelos claims the stock and disputes</p> <p>16 Weiser's claim of ownership," correct?</p> <p>17 A. That's correct.</p> <p>18 Q. All right. And within days you said as</p> <p>19 NATCO's attorney this is an interpleader action,</p> <p>20 correct?</p> <p>21 A. Correct.</p> <p>22 Q. In fact, you filed your complaint literally</p> <p>23 within days of receiving, not just the original</p> <p>24 stock, not just the letter of instruction, but the</p>	<p style="text-align: right;">Page 61</p> <p>1 letter disputing the ownership, correct?</p> <p>2 A. That's correct. Yes.</p> <p>3 Q. Do you know who Primoris Group is?</p> <p>4 A. I do not.</p> <p>5 Q. You mentioned that the power of attorney</p> <p>6 that was included in Exhibit 54, you described it as</p> <p>7 a general endorsement.</p> <p>8 A. Yes. It's true.</p> <p>9 Q. Does that go typically with received powers</p> <p>10 of attorney that are generally endorsed?</p> <p>11 A. One more time, Mr. Nork.</p> <p>12 Q. Has NATCO in the past received powers of</p> <p>13 attorney or stock powers that are generally</p> <p>14 endorsed?</p> <p>15 A. Yes, with a appropriate signatures.</p> <p>16 MR. NORK: I have nothing further. Thank</p> <p>17 you.</p> <p>18 THE COURT: What do you mean by</p> <p>19 "appropriate signatures"?</p> <p>20 THE WITNESS: An endorsement, your Honor,</p> <p>21 under the code requires assurances that the person</p> <p>22 signing is that person. Stock transfer agents in</p> <p>23 the vast majority of circumstances require a</p> <p>24 medallion guarantee. Somebody putting a medallion</p>

<p style="text-align: right;">Page 62</p> <p>1 guarantee stamp next to a signature is telling a</p> <p>2 transfer agent, I've done all the background work.</p> <p>3 This person is who they say they are and we're</p> <p>4 backing up with a bond we have to be medallion</p> <p>5 guarantors.</p> <p>6 Transfer agents use that because under the</p> <p>7 code they have to have reasonable assurance that the</p> <p>8 person signing is that person. That's that</p> <p>9 reasonable assurance. It doesn't have to be a</p> <p>10 medallion guarantee and medallion guarantees are</p> <p>11 difficult to obtain overseas. So, from time to time</p> <p>12 transfer agencies including NATCO will allow</p> <p>13 individuals to do things -- like NATCO's practice</p> <p>14 is, if you give us a notarized signature with a</p> <p>15 couple forms of ID so we have reasonable assurances,</p> <p>16 then we'll recognize it.</p> <p>17 And the reason I keep hedging on this</p> <p>18 signature is none of that's here. I don't know that</p> <p>19 this is a valid stock power. If I was reviewing</p> <p>20 this transaction, I would require more.</p> <p>21 THE COURT: What do you base that lack of</p> <p>22 confidence in? Is it just the -- well, you tell me.</p> <p>23 I don't want to suggest. Why are you concerned?</p> <p>24 THE WITNESS: There's no notary. I don't</p>	<p style="text-align: right;">Page 63</p> <p>1 mean to be flippant here, because this is probably</p> <p>2 in Greek, but what appears to be some kind of stamp</p> <p>3 in connection with this signature is Greek to me. I</p> <p>4 don't know what that is.</p> <p>5 There is no way -- this is not reasonable</p> <p>6 assurance that this signature is the signature of</p> <p>7 the registered owner of the stock.</p> <p>8 THE COURT: And the document that you</p> <p>9 received with Exhibit 54, does it look in your</p> <p>10 file -- and by "your file" I mean when you received</p> <p>11 it or when NATCO received it on November 16th,</p> <p>12 2015 -- the same way that is represented here?</p> <p>13 THE WITNESS: Yes, your Honor.</p> <p>14 THE COURT: Because I don't know how many</p> <p>15 times the document that I have in my exhibit on the</p> <p>16 bench has been photocopied, so I just want to</p> <p>17 confirm that when you have it NATCO's file having</p> <p>18 received it from Mr. Boutsalis at Primoris Group on</p> <p>19 November 16th, this is what it looked like.</p> <p>20 THE WITNESS: This is what it looked like,</p> <p>21 your Honor. Actually, these copies are pretty close</p> <p>22 to the quality, I believe, that are in NATCO's</p> <p>23 office.</p> <p>24 THE COURT: And the fact that it is other</p>
<p style="text-align: right;">Page 64</p> <p>1 than the putative signature of Mr. Skarpelos and the</p> <p>2 putative notarization, I will say, from Greece --</p> <p>3 and I understand you're not saying you don't know</p> <p>4 what that is, but let's just say that's what it</p> <p>5 is -- the fact that the rest of the document is</p> <p>6 entirely blank, does that affect your analysis at</p> <p>7 all?</p> <p>8 THE WITNESS: No. Again, your Honor, I'm</p> <p>9 not an expert, but I'll tell you I have enough</p> <p>10 experience in securities transfers to state to you</p> <p>11 that using blank stock powers is not unusual.</p> <p>12 That's why I made the distinction.</p> <p>13 I'm sure Mr. Nork wants me to make the</p> <p>14 distinction between a general endorsement and a</p> <p>15 specific endorsement. The specific endorsement</p> <p>16 would be the other stock power in this action, if it</p> <p>17 was otherwise properly executed, because it lists a</p> <p>18 particular person to whom the shares will be</p> <p>19 transferred, much in the same way an endorsement on</p> <p>20 a check is made. There are general and specific</p> <p>21 endorsements.</p> <p>22 THE COURT: And just for the sake of</p> <p>23 argument, if you would have received that and it had</p> <p>24 a medallion endorsement on it, then you would</p>	<p style="text-align: right;">Page 65</p> <p>1 consider this the power of attorney that was</p> <p>2 requested.</p> <p>3 THE WITNESS: Yes.</p> <p>4 THE COURT: Any questions based on my</p> <p>5 questions?</p> <p>6 MR. NORK: I do, your Honor. Thank you</p> <p>7 very much.</p> <p>8 CROSS-EXAMINATION (Continued)</p> <p>9 BY MR. NORK:</p> <p>10 Q. So, Exhibit 54, you received, it has a</p> <p>11 signature and it has a stamp on it, correct?</p> <p>12 A. Correct.</p> <p>13 Q. And you also in that same letter received a</p> <p>14 copy of a passport that had a certification stamp on</p> <p>15 the bottom of it, correct?</p> <p>16 A. Yes, that is correct.</p> <p>17 Q. Now, if I understood your testimony under</p> <p>18 questioning from the Court, there are exceptions to</p> <p>19 getting a medallion guarantee, correct?</p> <p>20 A. Correct.</p> <p>21 Q. And it involves providing other forms of</p> <p>22 ID, correct?</p> <p>23 A. Yes, in this case multiple forms.</p> <p>24 Q. Okay.</p>

<p>Page 66</p> <p>1 A. Well, that's what was requested. That's</p> <p>2 not what was provided.</p> <p>3 Q. Well, you didn't request multiple forms of</p> <p>4 ID yet, correct? You had simply asked for the</p> <p>5 stock. Is that right?</p> <p>6 A. I had not.</p> <p>7 Q. Okay.</p> <p>8 A. I was reviewing the request that had been</p> <p>9 made my NATCO.</p> <p>10 Q. Fair enough. But the point is this: By</p> <p>11 the time you received this letter, Exhibit 54, you</p> <p>12 already knew there was a dispute, right?</p> <p>13 A. Oh, yes, that's true.</p> <p>14 Q. Because you had gotten Mr. Pinsky's letter</p> <p>15 a couple days before, correct?</p> <p>16 A. That's very true.</p> <p>17 Q. So, you never even had an inclination to go</p> <p>18 through the steps you just described of confirming</p> <p>19 whether or not this stamp on the generally endorsed</p> <p>20 power of attorney was appropriate, confirming</p> <p>21 whether or not this form of ID was appropriate or</p> <p>22 whether or not other ID was available, because you</p> <p>23 already knew you were in dispute, right?</p> <p>24 A. Well, no. I wouldn't say that's completely</p>	<p>Page 67</p> <p>1 accurate. If you're asking me did I know when this</p> <p>2 stock came in that it was gonna get interpled, I</p> <p>3 would have to truthfully answer yes, I knew that</p> <p>4 this was coming. But, no, I did review the</p> <p>5 signature and there were problems.</p> <p>6 It is all the more reason to interplead it</p> <p>7 and let you present your client's position on it and</p> <p>8 let the judge decide what's -- what documentation is</p> <p>9 appropriate here, because from -- at this date upon</p> <p>10 presentment I sure couldn't tell.</p> <p>11 Q. You had questions.</p> <p>12 A. Absolutely.</p> <p>13 Q. And within two days of receiving this</p> <p>14 letter, Exhibit 54, NATCO had commenced this</p> <p>15 lawsuit.</p> <p>16 A. That's true.</p> <p>17 MR. NORK: Thank you. No further</p> <p>18 questions.</p> <p>19 THE COURT: Redirect based on the</p> <p>20 cross-examination and on the Court's questions, Mr.</p> <p>21 Adams?</p> <p>22 MR. ADAMS: Thank you.</p> <p>23 REDIRECT EXAMINATION</p> <p>24</p>
<p>Page 68</p> <p>1 BY MR. ADAMS:</p> <p>2 Q. Mr. Walker, walking through the same path</p> <p>3 that Mr. Nork set before us here, if you could turn</p> <p>4 to Exhibit 13 quickly for me. The aforementioned</p> <p>5 paragraph that Mr. Nork reviewed for you right below</p> <p>6 the page break line there --</p> <p>7 A. Yes.</p> <p>8 Q. -- the one that begins, "And it further be</p> <p>9 resolved" --</p> <p>10 A. Yes.</p> <p>11 Q. -- the first sentence of that that Mr. Nork</p> <p>12 went over with you, does that indicate that the</p> <p>13 original certificate must be properly presented for</p> <p>14 transfer?</p> <p>15 A. You have hit upon the exact reason that</p> <p>16 word is in there --</p> <p>17 Q. Thank you.</p> <p>18 A. -- "must be properly presented."</p> <p>19 Q. If I could also flip to your letter, Mr.</p> <p>20 Walker, Exhibit 47. Mr. Nork went over with you</p> <p>21 that you're requesting copies of the proper</p> <p>22 presentment. We'll focus on that in just two</p> <p>23 shakes. Also indicated a letter of instruction.</p> <p>24 There's also an indication in your second</p>	<p>Page 69</p> <p>1 paragraph, Mr. Walker, that you were asking for</p> <p>2 information to determine Mr. Alvarez's client as an</p> <p>3 appropriate person or to support their assertion</p> <p>4 that their client was an appropriate person.</p> <p>5 A. Correct.</p> <p>6 Q. What were you looking for there, Mr.</p> <p>7 Walker?</p> <p>8 A. A person issuing a stock transfer order</p> <p>9 under the code has to be an appropriate person. Not</p> <p>10 any person can do it. If for some unknown reason I</p> <p>11 knew about this transaction, was a completely</p> <p>12 unrelated party, I can't just send a letter to the</p> <p>13 transfer agent saying, Something's not right there</p> <p>14 and I'm instructing you to place a stop transfer.</p> <p>15 You have to be an appropriate person under</p> <p>16 the code and that's generally defined as the</p> <p>17 registered owner of the certificate or somebody</p> <p>18 standing in the registered owner's place. So,</p> <p>19 there's an avenue there that's available for</p> <p>20 individuals or corporations, for purchasers to place</p> <p>21 stock transfer instructions with the transfer agent,</p> <p>22 so if that certificate shows up, that that dispute</p> <p>23 has to be resolved before the transfer is effected.</p> <p>24 But you've got to meet those requirements.</p>

<p style="text-align: right;">Page 70</p> <p>1 You just can't say, Well, you know what, I'm an 2 appropriate person. If you're not the registered 3 owner, you've got to show that -- in this case, in 4 the case of a lost certificate -- that you're a 5 protected purchaser. So, what I'm asking for here, 6 I mean -- an attorney reading between the lines here 7 is gonna know that I'm asking for, How did you buy 8 the stock? Show me that you bought the stock, show 9 me that you have possession of the stock, show me 10 you don't have notice of an adverse claim.</p> <p>11 Those are the three things under the code 12 that, you know, I wanted him to show me. If he had 13 said, I don't know what you mean, he would have 14 gotten another letter saying, You cited the code, 15 Mr. Alvarez, and I'm asking you under the code for 16 that information --</p> <p>17 Q. Okay.</p> <p>18 A. -- but we never got to that point.</p> <p>19 Q. Right. And a document evidencing that 20 this, you know -- an appropriate -- going to restate 21 this -- an appropriate person would have the 22 requisite authority could be evidenced by a power of 23 attorney in addition to other documents. I'll-- 24 THE COURT: Mr. Adams, can you do me a</p>	<p style="text-align: right;">Page 71</p> <p>1 favor? Rephrase your question. You lost me there 2 somewhere in the middle, so go ahead.</p> <p>3 BY MR. ADAMS:</p> <p>4 Q. On either the context of determining 5 whether Mr. Alvarez's client was an appropriate 6 person or in the context of ensuring that a proper 7 presentment had been made to NATCO, the power of 8 attorney that we've reviewed was blank. There was 9 no indication as to whom the transferee was.</p> <p>10 Is that right?</p> <p>11 A. Well, there's a lot in that question.</p> <p>12 Q. Okay.</p> <p>13 A. And I know it sounds like it calls for a 14 yes-or-no answer. I don't mean to be argumentative 15 about the question, but in terms of looking at that 16 stock power for presentment, it's a different 17 question. In terms of looking at it to determine if 18 a party making a stock transfer order is an 19 appropriate person is a different question. They're 20 analyzed -- so, I'll answer those two separate 21 questions.</p> <p>22 At this point on November 3rd I didn't 23 have that stock power so his previous -- Mr. 24 Alvarez's letter had said he'd sent it. To my</p>
<p style="text-align: right;">Page 72</p> <p>1 understanding, he had and so I was asking him, Well, 2 no, show me that you presented the certificate. 3 Because if you're gonna claim status as a protected 4 purchaser, one of the things you gotta have is 5 possession, and if you haven't presented it, you 6 don't have possession, so show me that.</p> <p>7 Give me your instructions. You said you 8 sent instructions. Give me copies and show me when 9 you sent them, because the fact is he hadn't.</p> <p>10 Q. Right. And the time of the writing of your 11 letter, Mr. Walker, I think that distinction, if I 12 understand you correctly, is that the presentment 13 that's being indicated had not yet been made.</p> <p>14 A. That's correct.</p> <p>15 Q. The letter of instruction had not yet been 16 transmitted to NATCO.</p> <p>17 A. Correct.</p> <p>18 Q. Okay. Without distinguishing between those 19 two separate analyses, would an original stock power 20 be a requisite? Can I just send you a photocopy?</p> <p>21 A. Oh, no, no, which is another reason 22 medallion guarantees are so great. They are done 23 with a special ink. Nevada Agency has an ink 24 reader. We will know if something is a copy or an</p>	<p style="text-align: right;">Page 73</p> <p>1 original. It has to be an original.</p> <p>2 Q. Okay. When you looked at with Mr. Nork the 3 stamp, if you will, that is on the bottom of the 4 stock power that NATCO received, I'll have you also 5 look at Exhibit 14, if you would, sir. We did go 6 over this document together. This is the Affidavit 7 for Lost Stock Certificate.</p> <p>8 Mr. Walker, if you could flip to the second 9 page, is that more akin to the type of notary that 10 you were looking for?</p> <p>11 A. Yes. I mean, this is the type of notary 12 that I think in the United States we're used to 13 seeing. If you look at the acknowledgment there, 14 you know, the jurat, it says "State of" and "County 15 of." Yes, this was the Nevada Agency form.</p> <p>16 And, of course, because he was using that 17 form, Mr. Skarpelos was forced to do the best he 18 could in terms of providing that information and 19 providing a notary signature. But bear in mind here 20 at this point in time Mr. Skarpelos is the sole 21 officer and director of Anavex and is known to 22 NATCO. This is basically the issuer submitting this 23 documentation.</p> <p>24 Q. Okay.</p>

<p style="text-align: right;">Page 74</p> <p>1 A. It's a little different than if I lost my 2 shares of Apple again -- which if I owned shares of 3 Apple, I don't. But if I had and I was submitting 4 them, yes, it's a little different. They'll require 5 a lot more from me. But when you're dealing with 6 your corporate client saying, We've got a lost stock 7 certificate situation, we'll cover you on it and 8 they execute the documentation, that will be 9 sufficient for the transfer agent.</p> <p>10 Q. And part of your analysis, Mr. Walker, may 11 I presume -- or maybe I shouldn't presume but just 12 ask you, Did you take into consideration the fact 13 that you had already received stop correspondence, 14 including the affidavit we just got done looking at, 15 from Mr. Skarpelos, the sole board member?</p> <p>16 A. Well, you mean in terms of the decision to 17 file the interpleader action?</p> <p>18 Q. And not respond to the letters, including 19 the letter of instruction from Weiser Asset 20 Management in 48.</p> <p>21 Does that not come into consideration where 22 you've got a request to stop and reissue, a request 23 to stop the reissuance, and then an instruction 24 letter to remove the restricted stock legend and</p>	<p style="text-align: right;">Page 75</p> <p>1 make a transfer to a bank?</p> <p>2 A. Well, by the time 48 was received by NATCO, 3 the dispute was clear. I mean, 48 is dated 4 November 12th, 2015. That's not -- that appears 5 to be when it was sent. This one doesn't have the 6 NATCO stamp on it. My guess is there's one 7 somewhere that does. But it was probably received 8 right around when the stock was received, I believe. 9 So, even if it had been faxed that day, I mean, 10 benefit of the doubt that it was received on 11 November 12th.</p> <p>12 At that point Mr. Pinsky's letters were in 13 place, Mr. Alvarez's letters were in place. There 14 was a clear dispute. If we had -- if NATCO had 15 followed Weiser's direction, there was potential 16 liability for Mr. Skarpelos and vice versa. It was 17 clear without the parties coming together on an 18 agreement on what to do here, which, by the way, 19 happens quite frequently in circumstances where 20 there are disputes like this to avoid this 21 litigation.</p> <p>22 Without that, this was heading to court. 23 By the time presentment was made, if that's the 24 question people are looking for -- and I don't know</p>
<p style="text-align: right;">Page 76</p> <p>1 that at that point presentment was much of -- well, 2 it was a factor because without presentment we 3 didn't have a duty. And once we had the duty, we 4 didn't know how to perform that duty without 5 violating somebody's rights and so we asked the 6 Court to help us out.</p> <p>7 Q. In the context of the request to remove the 8 share restriction to then make a transfer, was -- 9 and I'm hoping I'm not misunderstanding your prior 10 testimony -- was an opinion letter and/or the name 11 of the buyer, were either of those requisites in you 12 being able to comply with this instruction letter?</p> <p>13 A. Oh, yeah. I mean, separately looking at 14 that -- and I think my testimony was, if there was 15 no dispute, there would have been further 16 discussion. There was no legal opinion rendered in 17 connection with the removal of the legend. That 18 would have been an absolute requirement.</p> <p>19 The documentation as it was without a 20 dispute would have been insufficient to effect a 21 transfer.</p> <p>22 Q. Thank you. The passport of Mr. Skarpelos 23 that we reviewed, as part of that same calculus of 24 looking at the instruction letter that you received,</p>	<p style="text-align: right;">Page 77</p> <p>1 not having received an opinion letter, not having an 2 original stock power, not having the name of the 3 buyer, taking issue with the stamp that was on the 4 power of attorney that we received, the expired 5 passport of Mr. Skarpelos that was sent in 6 accompaniment with those documents by Mr. Boutsalis, 7 would there have been a requisite to request 8 identification when those documents were executed?</p> <p>9 A. Yes, there would have been a request for 10 further documentation regarding reasonable 11 assurances on the signature on the stock power, yes.</p> <p>12 Q. And your knowledge, Mr. Walker, and in 13 review of the file, has NATCO ever received the 14 original Purchase and Sale Agreement or stock power?</p> <p>15 A. No.</p> <p>16 MR. ADAMS: No further questions, your 17 Honor.</p> <p>18 THE COURT: Re-cross based on the redirect, 19 Mr. Nork?</p> <p>20 RE-CROSS-EXAMINATION</p> <p>21 BY MR. NORK:</p> <p>22 Q. I guess just to confirm, you hadn't 23 received the legal opinion, you hadn't investigated 24 the validity of the ID for the passport copy, you</p>

<p style="text-align: right;">Page 78</p> <p>1 hadn't done any of that because you filed a 2 complaint within two days of knowing there was a 3 dispute, correct. 4 A. Yeah, that's correct. 5 MR. NORK: Thank you. Nothing further. 6 THE COURT: Just a question that has no 7 bearing on the outcome of the case but it's based on 8 something that you said. 9 You said a medallion signature has to be in 10 a specific kind of ink. Is that correct? 11 THE WITNESS: Correct. 12 THE COURT: And that NATCO has a reader to 13 determine whether or not that ink is present. 14 THE WITNESS: That is correct. 15 THE COURT: I'd assume it has some sort of 16 a mineral or something in it that glows in a 17 specific way but I don't know. 18 THE WITNESS: Yes. 19 THE COURT: So, there'd be no way you could 20 ever digitally send a medallion signature of a 21 document. It has to be the actual physical copy for 22 NATCO for someone similarly situated to determine 23 whether or not it is a medallion signature. 24 THE WITNESS: In the case of a certified</p>	<p style="text-align: right;">Page 79</p> <p>1 securities, that's correct. The electronic transfer 2 is a little different process, your Honor, and the 3 signature guarantees take place at the brokers. 4 That's part of their participation in the process 5 but, yes. 6 And the reason for that is that the company 7 that puts the medallion signature guarantee program 8 together wants to make sure that it's -- the 9 financial institutions participating in that are 10 taking steps to assure that those signatures are 11 right, that when their stamp is put on that document 12 and they are putting their financial wherewithal 13 behind that signature, that it's their stamp. 14 THE COURT: They want to make sure they're 15 getting what they paid for. 16 THE WITNESS: It is not uncommon for a 17 transfer agent to receive color-copy documents of 18 something that purports to be a medallion guarantee, 19 which, in fact, is not. 20 THE COURT: So, the parties are clear, 21 that's for my own personal edification. I was just 22 curious about that comment that he made. It has 23 nothing to do with the outcome in this case. 24 Mr. Nork, if you want to ask him a question</p>
<p style="text-align: right;">Page 80</p> <p>1 about something he just said, you can, but I would 2 not take anything that Mr. Walker just said in 3 response to my question as evidence or something I 4 would use to determine the outcome of the case. He 5 just said something that I found interesting. I 6 thought I'd ask him the question. 7 MR. NORK: While he's there under oath, you 8 might as well ask him. 9 THE COURT: Take advantage of his 10 information because I'd never heard that description 11 of a medallion signature in the past, that there was 12 actually a reader that would read the ink that 13 confirms that it is what it purports to be. 14 If you have a question about that, go 15 ahead. 16 BY MR. NORK: 17 Q. There's no claim, there's no issue that the 18 power of attorney that was included in Exhibit 54 19 did not have a medallion guarantee, correct? 20 A. Oh, it did not have a medallion guarantee. 21 It doesn't purport to be a medallion guarantee on 22 here. There's no medallion guaranteed signature on 23 this. 24 Q. Right. But as you also testified, there</p>	<p style="text-align: right;">Page 81</p> <p>1 are exceptions to getting a medallion guarantee, 2 correct? 3 A. That's correct. 4 MR. NORK: Okay. Thank you. 5 THE COURT: Now that we're talking about it 6 again, you can even look at Exhibit 33, which has 7 been marked and admitted and it's a more clear color 8 copy of what I assume Exhibit 54 purports to be. 9 Even if you had that, that's not a 10 medallion signature either, is it? 11 THE WITNESS: No. In fact, this makes more 12 clear my comment about whatever stamp that is on the 13 signature, one, I'm assuming that is Greek and, two, 14 I don't speak Greek. 15 So, not that either of those factors make 16 much of a difference, but I think under the UCC that 17 the fact that the transfer agent in the United 18 States would likely be interpreting things in 19 English or required that they be in English, I have 20 no idea what that is. 21 THE COURT: Any questions based on that 22 last area of inquiry, Mr. Nork? 23 MR. NORK: No, your Honor. Thank you. 24 THE COURT: Mr. Adams, based on what we</p>

<p style="text-align: right;">Page 82</p> <p>1 just discussed?</p> <p>2 MR. ADAMS: No, your Honor.</p> <p>3 THE COURT: Mr. Nork, is Mr. Walker free to</p> <p>4 go?</p> <p>5 MR. NORK: He is. And I wish him a good</p> <p>6 flight back to Salt Lake City.</p> <p>7 THE COURT: Mr. Adams, similarly, is he</p> <p>8 free to go?</p> <p>9 MR. ADAMS: Yes, your Honor.</p> <p>10 THE COURT: Okay. Mr. Walker, thank you</p> <p>11 for all your involvement in this case and for your</p> <p>12 testimony today. I truly appreciate it. Safe</p> <p>13 travels.</p> <p>14 Court will be in recess for approximately</p> <p>15 15 minutes.</p> <p>16 (Recess taken.)</p> <p>17 THE COURT: Please be seated, everybody.</p> <p>18 We're back on the record in CV15-00259, Skarpelos v.</p> <p>19 Weiser. Mr. Walker has left.</p> <p>20 Mr. Skarpelos, if you would please resume</p> <p>21 the witness stand, sir. Mr. Skarpelos, I would</p> <p>22 remind you that you're still under oath.</p> <p>23 You understand that?</p> <p>24 THE WITNESS: Yes, sir.</p>	<p style="text-align: right;">Page 83</p> <p>1 THE COURT: Mr. Nork, your</p> <p>2 cross-examination may begin.</p> <p>3 CROSS-EXAMINATION</p> <p>4 BY MR. NORK:</p> <p>5 Q. Good morning, Mr. Skarpelos. How are you?</p> <p>6 A. Good. How are you?</p> <p>7 Q. Do you have the deposition exhibit binder</p> <p>8 in front of you?</p> <p>9 A. Yes.</p> <p>10 THE COURT: He has the -- you said</p> <p>11 "deposition exhibit"?</p> <p>12 MR. NORK: I'm sorry. Exhibit binder.</p> <p>13 THE WITNESS: Yes.</p> <p>14 BY MR. NORK:</p> <p>15 Q. Turn, please, to Exhibit 6. And you were</p> <p>16 asked many questions about this exhibit under direct</p> <p>17 examination. Do you remember that?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. This is an email from you to Mr.</p> <p>20 Livadas, correct?</p> <p>21 A. Yes.</p> <p>22 Q. In October of 2007, correct?</p> <p>23 A. Yes.</p> <p>24 Q. And it contains two portions. One is an</p>
<p style="text-align: right;">Page 84</p> <p>1 email text that says "Hi, Bud. I send the rest of</p> <p>2 papers to Harvey. I sing this tell the director to</p> <p>3 sing and keep one" -- I think it's -- "copy for me</p> <p>4 and tell me when you can send the money. It's very</p> <p>5 urgent. I have to pay lots of stuff ASAP.</p> <p>6 Otherwise, I am having a problem." Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. So, you were e-mailing Mr. Livadas telling</p> <p>9 him you urgently needed money in October of 2007,</p> <p>10 correct?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And you also provide at the bottom</p> <p>13 of this exhibit bank instructions, correct?</p> <p>14 A. Yes.</p> <p>15 Q. You're asking the money to be sent, not to</p> <p>16 your bank account, but to somebody else's, correct?</p> <p>17 A. Correct.</p> <p>18 Q. Okay. You're asking money to be sent to a</p> <p>19 Credit Suisse bank, correct?</p> <p>20 A. Yes.</p> <p>21 Q. Held by a company called Casad, correct?</p> <p>22 A. Correct.</p> <p>23 Q. If you turn -- actually, if you look</p> <p>24 there's an attachment line. Do you see at the top</p>	<p style="text-align: right;">Page 85</p> <p>1 of Exhibit 6 it says "Attachments"?</p> <p>2 A. Yes.</p> <p>3 Q. In there it says, "Anavex Affiliate Stock</p> <p>4 Purchase Agreement September 27th, 2007," correct?</p> <p>5 A. Correct.</p> <p>6 Q. All right. Turn, please, to Exhibit 5.</p> <p>7 A. Yes.</p> <p>8 Q. This is an Affiliate Stock Purchase</p> <p>9 Agreement.</p> <p>10 A. Yes.</p> <p>11 Q. Is it fair to conclude that this Stock</p> <p>12 Purchase Agreement was the attachment to this email?</p> <p>13 A. Correct.</p> <p>14 Q. Okay. So, you're telling Mr. Livadas you</p> <p>15 urgently need money and you're asking him to send,</p> <p>16 at least according to this Stock Purchase Agreement,</p> <p>17 \$1,615,000 to the bank account of a company called</p> <p>18 Casad.</p> <p>19 A. Correct.</p> <p>20 Q. Okay. Now, you remember testifying in your</p> <p>21 deposition that you didn't know who Casad was,</p> <p>22 correct?</p> <p>23 A. I say exactly my deposition I never know</p> <p>24 exactly what is it. I believe it was a banking</p>

<p style="text-align: right;">Page 86</p> <p>1 service company out of Geneva.</p> <p>2 MR. NORK: I would like to have</p> <p>3 Mr. Skarpelos' deposition opened and published.</p> <p>4 THE COURT: Any objection?</p> <p>5 MR. ANDERSON: No, your Honor.</p> <p>6 THE COURT: That will be the order.</p> <p>7 MR. NORK: Would your Honor like a copy?</p> <p>8 THE COURT: Yes.</p> <p>9 THE CLERK: The deposition of Athanasios</p> <p>10 Skarpelos dated October 24, 2018, open and</p> <p>11 published.</p> <p>12 MR. NORK: May I approach the witness, your</p> <p>13 Honor?</p> <p>14 THE COURT: You may.</p> <p>15 BY MR. NORK:</p> <p>16 Q. Please turn to page 81 of your deposition.</p> <p>17 A. Which page?</p> <p>18 MR. NORK: May I approach?</p> <p>19 THE COURT: Yes.</p> <p>20 BY MR. NORK:</p> <p>21 Q. On line 23 I ask the question, "Okay. What</p> <p>22 is Casad. Your answer, "Casad, I don't even know.</p> <p>23 It's a Swiss company. Like, I don't even know what</p> <p>24 Amsbach. I know it's a Swiss company. Probably</p>	<p style="text-align: right;">Page 87</p> <p>1 Christos ask me can you find somebody to receive the</p> <p>2 money. That's all I know." Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. So, you instructed Mr. Livadas to send</p> <p>5 money to Casad, the company that you testified you</p> <p>6 did not know, correct?</p> <p>7 A. It's continued, the questions. I have more</p> <p>8 explanatory here that I see.</p> <p>9 Q. And your attorney will give you plenty of</p> <p>10 opportunity to further explain, but that was your</p> <p>11 answer to the question I asked, correct?</p> <p>12 A. Correct.</p> <p>13 Q. Is it common for you to use other people's</p> <p>14 accounts to hold your money?</p> <p>15 A. No.</p> <p>16 Q. We know that you were going to do it in</p> <p>17 this instance, correct?</p> <p>18 A. No, it's not correct.</p> <p>19 Q. Well, Casad is not your company, correct?</p> <p>20 A. It's a service company.</p> <p>21 Q. Okay. Can you turn, please, to page 86.</p> <p>22 At line 20, "Question: My question is why Casad?</p> <p>23 "Answer: Probably I was convinced I was</p> <p>24 in" -- and then Mr. Anderson objects and you</p>
<p style="text-align: right;">Page 88</p> <p>1 continue with your answer on page 87 at line 1. "I</p> <p>2 was in Geneva at the time and Casad, because</p> <p>3 probably the most convenient company to wire the</p> <p>4 money. The same thing happens to me if I go to</p> <p>5 Bahamas and somebody wants to send me money in</p> <p>6 Bahamas. I probably asked Christos because I don't</p> <p>7 have an account." Do you see that?</p> <p>8 A. Correct.</p> <p>9 Q. So, there are occasions when you ask people</p> <p>10 to send money to accounts that are not yours,</p> <p>11 correct?</p> <p>12 A. It's not correct.</p> <p>13 Q. Okay. Did you testify truthfully when your</p> <p>14 deposition was taken?</p> <p>15 A. I used it as an example.</p> <p>16 Q. All right. But, in any event, you claim</p> <p>17 that this agreement, which is embodied in Exhibits 6</p> <p>18 and 5, where you were selling 950,000 shares of</p> <p>19 Anavex stocks to a company called Amsbach Overseas</p> <p>20 and where you urgently needed the money, you claim</p> <p>21 that you never got the money, correct?</p> <p>22 A. Correct.</p> <p>23 Q. And is there an email that you have</p> <p>24 produced in this case to Mr. Livadas saying, Where</p>	<p style="text-align: right;">Page 89</p> <p>1 is the money?</p> <p>2 A. I never put this email like that to this</p> <p>3 case.</p> <p>4 Q. Correct. You have not.</p> <p>5 A. No.</p> <p>6 Q. So, there is no correspondence that you</p> <p>7 have produced after the dates of Exhibits 6 and 5</p> <p>8 where you are asking Mr. Livadas, Where is my \$1.6</p> <p>9 million, correct?</p> <p>10 A. I never put this any paper because I've</p> <p>11 never been asked.</p> <p>12 Q. Okay.?</p> <p>13 A. This transaction, as far as I knew, the</p> <p>14 time we started discovery never had anything to do</p> <p>15 with our case.</p> <p>16 Q. Okay. Despite, apparently, Mr. Livadas not</p> <p>17 sending you the money or Amsbach not sending you the</p> <p>18 money after you acquired the stock, you continued to</p> <p>19 do business with Mr. Livadas afterwards, correct?</p> <p>20 A. Correct.</p> <p>21 Q. Now, on the topic of your banking habits,</p> <p>22 can you turn to Exhibit 61, please. These are four</p> <p>23 pages of documents that you produced in this case,</p> <p>24 correct?</p>

<p style="text-align: right;">Page 90</p> <p>1 A. Correct.</p> <p>2 Q. And they bear the number at the lower</p> <p>3 right-hand corner S00032 through 35, correct?</p> <p>4 A. Correct.</p> <p>5 Q. And can you generally describe to the Court</p> <p>6 what these documents are.</p> <p>7 A. These documents, it's a joint account I</p> <p>8 have in the bank with my brother -- one of my</p> <p>9 brothers and my father and myself.</p> <p>10 Q. Okay. Move to admit Exhibit 61.</p> <p>11 MR. ANDERSON: Objection, your Honor,</p> <p>12 hearsay and relevance.</p> <p>13 THE COURT: First, regarding the hearsay --</p> <p>14 well, let's start with the relevance objection</p> <p>15 first.</p> <p>16 Mr. Nork, in reviewing the exhibit in</p> <p>17 anticipation of its being moved into evidence, I</p> <p>18 would note that it is totally in Greek.</p> <p>19 MR. NORK: You're absolutely correct.</p> <p>20 THE COURT: I don't speak Greek. It is not</p> <p>21 translated or interpreted for me. What possible</p> <p>22 relevance could it have to me?</p> <p>23 MR. NORK: The relevance, your Honor, is</p> <p>24 that we asked for all bank records for all accounts</p>	<p style="text-align: right;">Page 91</p> <p>1 held by Mr. Skarpelos during a range period of time</p> <p>2 and what we got was these four pages.</p> <p>3 THE COURT: Is that an accurate statement</p> <p>4 Mr. Anderson?</p> <p>5 MR. ANDERSON: I believe so, your Honor. I</p> <p>6 wasn't involved until sort of the tail end of</p> <p>7 discovery. I believe this is the extent of the bank</p> <p>8 records that were produced.</p> <p>9 I maintain the relevance objection on the</p> <p>10 grounds that this is a dispute over whether there</p> <p>11 was a purchase and sale of stock, and I don't</p> <p>12 believe that these are relevant and I would maintain</p> <p>13 my hearsay objection.</p> <p>14 THE COURT: Okay. So, we're still --</p> <p>15 relevant evidence is any evidence that tends to make</p> <p>16 a fact at issue in the case more or less likely, I</p> <p>17 think, paraphrasing.</p> <p>18 MR. NORK: Yes, your Honor.</p> <p>19 THE COURT: How would these four pages make</p> <p>20 any issue in this case more or less likely?</p> <p>21 MR. NORK: Okay. Exhibit 44, which is the</p> <p>22 account statement, shows wire transfers coming out</p> <p>23 of Mr. Skarpelos' W.A.M. account.</p> <p>24 THE COURT: Right.</p>
<p style="text-align: right;">Page 92</p> <p>1 MR. NORK: We have just seen documents</p> <p>2 where Mr. Skarpelos has asked money to be sent to</p> <p>3 accounts not held by himself but, rather, by other</p> <p>4 companies.</p> <p>5 And we will see additional evidence like</p> <p>6 that later on in this case about wire transfers</p> <p>7 going to accounts not held by Mr. Skarpelos but,</p> <p>8 rather, to others.</p> <p>9 The point of the matter is the fact that</p> <p>10 for a date range of approximately 11 years Mr.</p> <p>11 Skarpelos has testified -- well, Mr. Skarpelos has</p> <p>12 provided the entirety of four pages of bank records,</p> <p>13 which shows that he doesn't have any bank records</p> <p>14 and yet is engaged in buying and selling of stocks.</p> <p>15 So, the question is, Where does the money</p> <p>16 go? And that becomes very relevant, your Honor,</p> <p>17 when we hear the testimony of Lambros.</p> <p>18 THE COURT: Okay. I think that then, based</p> <p>19 on that description of why they're relevant, the</p> <p>20 Court finds that they are relevant. Under 48.035,</p> <p>21 I'm not quite sure that I would get past the</p> <p>22 confusion of the issues. Hold on a second. I'll</p> <p>23 take a step back and apologize to the court reporter</p> <p>24 for breaking up my thoughts.</p>	<p style="text-align: right;">Page 93</p> <p>1 The Court finds that they're relevant.</p> <p>2 Given the fact that I can't read them and have no</p> <p>3 idea what they mean, I'm not quite sure what weight</p> <p>4 I would give to them beyond the fact that it is</p> <p>5 represented these are the documents that</p> <p>6 Mr. Skarpelos produced to you when you asked for all</p> <p>7 of his banking records.</p> <p>8 What I'm telling you, Mr. Nork, I don't</p> <p>9 even know if these are banking records because I</p> <p>10 can't read them.</p> <p>11 MR. NORK: I understand, your Honor.</p> <p>12 THE COURT: They're four pages with some</p> <p>13 sort of printing, and other than the numerical</p> <p>14 representations, I have no idea what they say.</p> <p>15 So, I will admit them because based on the</p> <p>16 representations you've made they are relevant.</p> <p>17 However, I said I'll admit them but not yet.</p> <p>18 Mr. Anderson also made an objection</p> <p>19 regarding hearsay. What's the hearsay response?</p> <p>20 MR. NORK: Well, I don't pretend to offer</p> <p>21 these for the truth of the matter asserted because I</p> <p>22 don't read Greek either, your Honor.</p> <p>23 What I'm offering them for is to show that</p> <p>24 in a response to a request for records, what I got</p>

<p style="text-align: right;">Page 94</p> <p>1 was four pieces of paper.</p> <p>2 THE COURT: So, it's kind of interesting,</p> <p>3 Mr. Anderson, because they're clearly not being</p> <p>4 offered for the truth of the matter asserted. No</p> <p>5 one knows what they say. I'm not giving them any</p> <p>6 wait -- well, I can't say "no one." That's not</p> <p>7 fair.</p> <p>8 Possibly Mr. Skarpelos could read them or</p> <p>9 possibly Mr. Livadas could read them because he said</p> <p>10 that he reads Greek as well. But he's not going to</p> <p>11 interpret them for me. I don't think that would be</p> <p>12 appropriate because then they'd become potentially</p> <p>13 hearsay.</p> <p>14 They're admitted simply as the response to</p> <p>15 the production request, not for the truth of the</p> <p>16 matter asserted. It's just these four pages written</p> <p>17 in Greek are what were given and I don't know what</p> <p>18 they say, so it's not hearsay.</p> <p>19 MR. ANDERSON: Your Honor, as I understand</p> <p>20 -- I understand what your Honor is saying and I just</p> <p>21 want to respond on the record to Mr. Nork's</p> <p>22 objection.</p> <p>23 As I understood the response to the</p> <p>24 objection, it was these are not being offered for</p>	<p style="text-align: right;">Page 95</p> <p>1 the truth but for the effect on the listener.</p> <p>2 Is that the exception that's being</p> <p>3 asserted? I'm not sure that --</p> <p>4 THE COURT: Well, it's not -- just a fine</p> <p>5 point of the rules of evidence. When somebody says</p> <p>6 they're not being offered for the truth of the</p> <p>7 matter asserted, they're being offered for the</p> <p>8 effect upon the listener, then the evidence itself</p> <p>9 is not hearsay.</p> <p>10 So, there's a difference between a hearsay</p> <p>11 exception as they're codified in Chapter 51, as I</p> <p>12 recall, and the argument that attorneys often make</p> <p>13 that it's not being offered for the truth of the</p> <p>14 matter asserted.</p> <p>15 If it's not being offered for the truth of</p> <p>16 the matter asserted, it is by definition not hearsay</p> <p>17 and, therefore, the exceptions don't even come into</p> <p>18 play. So, you don't need to start talking about the</p> <p>19 business record or a learned treatise or a dying</p> <p>20 declaration, or anything like that. It's just not</p> <p>21 being offered for the truth of the matter asserted.</p> <p>22 MR. ANDERSON: Thank you, your Honor.</p> <p>23 THE COURT: So, that's why I'm admitting</p> <p>24 it. It's not hearsay. And I don't want anyone to</p>
<p style="text-align: right;">Page 96</p> <p>1 start interpreting or trying to tell me what these</p> <p>2 things say, because then I think it's inappropriate.</p> <p>3 Because then it would potentially become hearsay and</p> <p>4 Mr. Nork would need to proffer an exception to the</p> <p>5 hearsay rule.</p> <p>6 So, prior to getting to that point, you</p> <p>7 would need to be prepared to do that, Mr. Nork, and</p> <p>8 I don't know that you are.</p> <p>9 MR. NORK: I'm not, your Honor.</p> <p>10 THE COURT: And I don't want Mr. Skarpelos</p> <p>11 or any other witness in this case to start telling</p> <p>12 me what any of these documents say or mean. I don't</p> <p>13 even know if they are bank records.</p> <p>14 All I know is that, according to the</p> <p>15 representation of the attorneys, there was a request</p> <p>16 for all banking records for a specified period of</p> <p>17 time in the discovery process and that these four</p> <p>18 pages written in Greek is what were turned over.</p> <p>19 Is that correct, Mr. Nork?</p> <p>20 MR. NORK: Yes, your Honor.</p> <p>21 THE COURT: Mr. Anderson, what's your</p> <p>22 thought?</p> <p>23 MR. ANDERSON: Your Honor, that's my</p> <p>24 understanding. In terms of what the Court just</p>	<p style="text-align: right;">Page 97</p> <p>1 described as the production, that's my understanding</p> <p>2 of what happened. I can't dispute that.</p> <p>3 THE COURT: Okay. So, that's why they will</p> <p>4 be admitted. They're not hearsay and they're</p> <p>5 relevant and, therefore, the Court will admit them.</p> <p>6 MR. NORK: Thank you.</p> <p>7 THE COURT: So, Ms. Clerk, 61 is admitted</p> <p>8 with those limitations.</p> <p>9 (Exhibit 61 admitted.)</p> <p>10 BY MR. NORK:</p> <p>11 Q. Mr. Skarpelos, you've heard the discussion</p> <p>12 between attorneys. Do you agree that in response to</p> <p>13 a response for bank records what you provided were</p> <p>14 these four pieces of paper, correct?</p> <p>15 A. Correct.</p> <p>16 Q. You also testified under direct examination</p> <p>17 that you don't do a lot of banking with Greek banks,</p> <p>18 correct?</p> <p>19 A. Correct.</p> <p>20 Q. And why is that again?</p> <p>21 A. Because there are financial problems the</p> <p>22 last 30 years and I don't have an active account and</p> <p>23 I don't have business with them.</p> <p>24 Q. Okay. And speaking of active accounts, you</p>

<p style="text-align: right;">Page 98</p> <p>1 also testified that, because you don't have active 2 accounts, you don't have statements, correct? 3 A. Correct. 4 Q. Okay. And it's your understanding that, if 5 an account is not active, you don't receive a 6 statement. Is that correct? 7 A. Correct. 8 Q. Okay. Now, it has also been your testimony 9 that your W.A.M. account was never active, correct? 10 A. Never was an account that never was opened. 11 Its' a difference. 12 Q. According to your testimony, you never 13 withdrew money or engaged in any transaction with 14 your W.A.M. account, correct? 15 A. Correct. 16 Q. So, there's no expectation that you have 17 that you would have ever received periodic account 18 statements for that account, correct? 19 A. Correct. I never received account 20 statements from W.A.M. because my account never was 21 activated. 22 Q. So, it was not active, correct? 23 A. Correct. 24 Q. Okay. If I recall your testimony under</p>	<p style="text-align: right;">Page 99</p> <p>1 direct examination, you said one of the reasons you 2 became concerned about the status of your stock was 3 because you were never receiving account statements 4 from W.A.M., correct? 5 A. One of them, correct. 6 Q. Why would you expect to receive an account 7 statement if you never engaged in any activity in 8 the accounts? 9 A. I say one of them. 10 Q. Okay. From 2007 until the present, do you 11 know if you have any other bank records besides 12 these four pages? 13 A. This is 11 years. We're talking about from 14 -- 11 years -- 15 Q. Yes, sir. 16 A. -- if I have any other bank records. 17 Q. Yes, sir. 18 A. I believe no. 19 Q. You believe no. 20 A. Yes. 21 Q. All right. 22 A. As far as I remember, because this is 11 23 years we're talking about. 24 Q. I understand. Can you turn, please, to</p>
<p style="text-align: right;">Page 100</p> <p>1 Exhibit 30. Do you have it? 2 A. Yes. 3 Q. Okay. If I understand your testimony under 4 direct examination, you testified that when you saw 5 this document as part of this lawsuit, that was the 6 first you had heard of Weiser Capital, correct? 7 A. Correct. 8 Q. And prior to that lawsuit sometime in 2016, 9 you had never heard of Weiser Capital, correct? 10 A. Correct. 11 Q. Sir, isn't it true that Anavex has been 12 doing business with Weiser Capital since 2011? 13 A. It's difficult for me to remember that. 14 Q. Well, okay. Let me try to assist you. 15 MR. NORK: I'd like to mark this next, your 16 Honor. 17 THE COURT: A new exhibit? 18 THE CLERK: Exhibit 63 marked. 19 (Exhibit 63 marked.) 20 MR. ANDERSON: Your Honor, I'm going to 21 object, I guess, to a document that I haven't been 22 provided prior to this trial, I've not seen before. 23 MR. NORK: This is the public record, your 24 Honor, an SEC filing as indicated by the first page</p>	<p style="text-align: right;">Page 101</p> <p>1 and by the internet line down at the bottom. It's 2 being used to impeach the witness and to refresh his 3 recollection. 4 MR. ANDERSON: Your Honor, I believe that 5 Mr. Skarpelos testified at his deposition that he'd 6 never heard of Weiser Capital, Weiser Bahamas, and 7 so if that was an issue for them, this document 8 could have been brought to my attention or disclosed 9 to me in October or early November of last year 10 rather than on cross-examination of my witness. 11 THE COURT: Mr. Nork. 12 MR. NORK: Your Honor, I don't know how he 13 was going to testify at trial until he testified at 14 trial, and that's what's important in this case. 15 He has testified at trial clearly that he's 16 never heard of Weiser Capital until the -- until 17 this lawsuit was commenced. I'm allowed to impeach 18 that testimony using public records. 19 THE COURT: Any question that the document 20 itself is what it purports to be, Mr. Anderson? 21 MR. ANDERSON: I don't know. I was just 22 handed it, your Honor. It appears to look official. 23 THE COURT: We'll be in recess for about 10 24 minutes to look at it, Mr. Anderson.</p>

<p style="text-align: right;">Page 102</p> <p>1 MR. ANDERSON: Thank you.</p> <p>2 (Recess taken.)</p> <p>3 THE COURT: Please be seated. We'll go</p> <p>4 back on the record in Skarpelos v. Weiser,</p> <p>5 CV15-02259.</p> <p>6 When we took a break I gave Mr. Anderson</p> <p>7 the opportunity to review the document marked that</p> <p>8 will never be admitted because it's only being used</p> <p>9 to refresh recollection by Mr. Nork. I think it's</p> <p>10 NRS 50.125 that discusses refreshing recollection</p> <p>11 with a writing, which is what Mr. Nork has indicated</p> <p>12 he intends to do with the 133-page document entitled</p> <p>13 "The United States Securities and Exchange</p> <p>14 Commission Form S1 Anavex Life Sciences</p> <p>15 Corporation." Mr. Anderson.</p> <p>16 MR. ANDERSON: Your Honor, I've reviewed</p> <p>17 the section that Counsel has represented he intends</p> <p>18 to use. It's at page 122 of 133. I appreciate him</p> <p>19 pointing out that specific section. I've read that</p> <p>20 section. It's the second full -- third -- fourth</p> <p>21 full paragraph, your Honor, that starts</p> <p>22 "April 20th, 2011." The section he's going to be</p> <p>23 using, I think, is towards the bottom. There's a</p> <p>24 sentence that talks about concurrently Weiser</p>	<p style="text-align: right;">Page 103</p> <p>1 Capital Limited, and that's the reference he's going</p> <p>2 to use.</p> <p>3 Now, what's happened in this case is the</p> <p>4 named entity of Weiser Bahamas Limited at Mr.</p> <p>5 Livadas' deposition I asked him if I should call it</p> <p>6 "Bahamas" and he said, I'd prefer you call it</p> <p>7 "Weiser Capital." So, since that time we've been</p> <p>8 referring to Weiser Bahamas Limited as "Weiser</p> <p>9 Capital" as a nickname.</p> <p>10 This appears to be a reference to a Weiser</p> <p>11 Capital Limited of the Bahamas, which is not the</p> <p>12 legal company that's at issue in this case. The</p> <p>13 company at issue in this case and the question I</p> <p>14 asked Mr. Skarpelos yesterday, Have you heard of</p> <p>15 Weiser Capital, because that's how we've been</p> <p>16 referring to that entity that's a party in this</p> <p>17 case.</p> <p>18 This appears to be an entirely different</p> <p>19 company of which we have no information. I think,</p> <p>20 perhaps, Mr. Walker testified this morning to three</p> <p>21 separate Weiser entities but this is not Weiser</p> <p>22 Capital that's at issue in this case and we've only</p> <p>23 been using "Weiser Capital" at Mr. Livadas' request</p> <p>24 in his deposition because that's what he asked us to</p>
<p style="text-align: right;">Page 104</p> <p>1 call it. He said it would be easier for him to</p> <p>2 distinguish between W.A.M. and Weiser Bahamas if we</p> <p>3 called Weiser Bahamas "Weiser Capital."</p> <p>4 THE COURT: Mr. Nork.</p> <p>5 MR. NORK: Your Honor, all of that would be</p> <p>6 very appropriate on redirect. It doesn't change the</p> <p>7 fact, though, that Mr. Skarpelos testified he had</p> <p>8 never heard the name "Weiser Capital" until this</p> <p>9 lawsuit. And this is evidence that he was doing</p> <p>10 business at least with an entity named Weiser</p> <p>11 Capital as long ago as 2011.</p> <p>12 THE COURT: Well, it's not being admitted,</p> <p>13 Mr. Nork. I don't think the purpose of this</p> <p>14 document was offered as an exhibit that will be</p> <p>15 admitted. It is marked.</p> <p>16 You also indicated you wanted to use it to</p> <p>17 refresh Mr. Skarpelos' recollection. I'll allow you</p> <p>18 to do that. Under 50.125, which I just pulled up,</p> <p>19 it indicates under Subsection 1(a)1 through 4 that,</p> <p>20 "If a witness uses a writing to refresh his or her</p> <p>21 memory while testifying, an adverse party is</p> <p>22 entitled to have it produced at the hearing to</p> <p>23 inspect it, to cross-examine a witness thereon and</p> <p>24 to introduce in evidence those portions which relate</p>	<p style="text-align: right;">Page 105</p> <p>1 to the testimony of the witness for the purpose of</p> <p>2 effecting the witness's credibility."</p> <p>3 And then Subsection 1(b) of that same</p> <p>4 statute says, "Before testifying, if the judge in</p> <p>5 his or her discretion determines that the interest</p> <p>6 of justice so require, an adverse party is entitled</p> <p>7 to, one, have it produced at the hearing, two, to</p> <p>8 inspect it, three, to cross-examine the witness</p> <p>9 thereon and, four, to introduce in evidence those</p> <p>10 portions which relate to the testimony of the</p> <p>11 witness for the purpose of effecting the witnessing</p> <p>12 credibility."</p> <p>13 Subsection 2, "If it is claimed that the</p> <p>14 writing contains matters not related to the subject</p> <p>15 matter of the testimony, the judge shall examine the</p> <p>16 writing in chambers, exercise any portions not so</p> <p>17 related and order delivery of the remainder of the</p> <p>18 party entitled thereto. Any portion withheld over</p> <p>19 objection shall be preserved and made available to</p> <p>20 the appellate court in the event of an appeal."</p> <p>21 So, what we will do is mark this entire</p> <p>22 133-page document as an exhibit. It's Exhibit 63.</p> <p>23 Mr. Nork has indicated that the only area that he</p> <p>24 wishes to use to refresh Mr. Skarpelos' recollection</p>

<p style="text-align: right;">Page 106</p> <p>1 regarding his involvement or knowledge of an entity 2 known as "Weiser Capital Limited" is on page 122 of 3 133. It's specifically one paragraph contained 4 therein. Is that correct? 5 MR. NORK: Yes, your Honor. 6 THE COURT: So, he can be directed to that 7 single paragraph and refresh his recollection. Mr. 8 Anderson will have the opportunity to cross-examine 9 or to redirect Mr. Skarpelos regarding that issue. 10 The court would note that NRS 50.125 refers 11 to an adverse party, but I don't think that Mr. 12 Anderson is an adverse party. I think he's allowed 13 to cross-examine or redirect Mr. Skarpelos, his own 14 witness, regarding his -- having his recollection 15 refreshed, assuming that that's what happens. 16 So, you can use that one identified 17 paragraph on page 122 that begins with the words "On 18 April 20th, 2011, Anavex issued a \$25,000 19 convertible debenture to one investor." That is the 20 one paragraph that you can use. The court believes 21 that it has complied with 50.125 because I did look 22 at this document at least briefly in my chambers 23 while on recess. I didn't read all 133 pages 24 because I wasn't sure what was relevant, but I</p>	<p style="text-align: right;">Page 107</p> <p>1 reviewed the portion where the parties directed me. 2 Mr. Nork. 3 MR. NORK: May I approach, your Honor? 4 THE COURT: You may. 5 BY MR. NORK: 6 Q. Mr. Skarpelos, I've handed you the exhibit 7 marked No. 63. Can you turn, please -- actually, 8 let me ask you the first page of this exhibit, is 9 this a document you've seen prior to today? 10 A. Yes. 11 Q. Okay. During what period of time were you 12 a director of Anavex? 13 A. I became a director in Anavex in January of 14 2013 to present. 15 Q. January 2013? 16 A. 1-3. 17 Q. Okay. I understood your testimony that you 18 had become a director prior to that time. 19 Is that true? 20 A. No. 21 Q. Okay. But in any event in 2013, correct? 22 A. 2013, yes. 23 Q. Can you turn, please, to page 122 of 133. 24 There was a paragraph right in the middle of that</p>
<p style="text-align: right;">Page 108</p> <p>1 page that starts with "On April 20th, 2011." 2 Do you see that? 3 A. Yes. 4 Q. Okay. The first sentence says, "On 5 April 20th, 2011, Anavex issued a \$250,000 6 convertible debenture to one investor," correct? 7 A. Correct. 8 Q. The next relevant sentence is the third 9 one, which starts with "On May 4th, 2011." It 10 says, "On May 4th, 2011, Anavex issued a \$500,000 11 convertible debenture to one investor in the same 12 maturity date." Do you see that? 13 A. Correct. 14 Q. Then, if you scan down to one of the last 15 sentences in this paragraph that starts with "In 16 connection with" -- 17 A. "The warrants." 18 MR. NORK: May I assist? 19 THE COURT: You may. Mr. Skarpelos, he's 20 going to point out to you what he's talking about. 21 THE WITNESS: Yes. Thank you. 22 BY MR. NORK: 23 Q. Okay. That says "In connection with the 24 issuance of the convertible debentures, the</p>	<p style="text-align: right;">Page 109</p> <p>1 company" -- that's Anavex, correct -- 2 A. Correct. 3 Q. -- "paid \$100,000 in fees to Weiser Capital 4 Limited of the Bahamas. Concurrently, Weiser 5 Capital Limited exercised its right to acquire 6 33,344 shares and 33,344 warrants of the company at 7 an aggregate purchase price of \$100,000. The 8 warrants were exercisable at \$4 per share for two 9 years." Do you see that? 10 A. Yes. 11 Q. Does that, sir, refresh your recollection 12 that Anavex at least had been doing business with an 13 entity called "Weiser Capital Limited of the 14 Bahamas" as early as 2011? 15 A. Correct. 16 Q. Okay. Were you -- so, you were familiar 17 with the fact, as a director -- you were a director 18 in 2013 at or about the time that this document was 19 filed with the Securities and Exchange Commission, 20 correct? 21 A. When this document was filed? 22 Q. It's at the top of the first page, "Filed 23 on September 4th, 2013." 24 A. Yes.</p>

<p style="text-align: right;">Page 110</p> <p>1 Q. You were a director at the time this form 2 was filed?</p> <p>3 A. Excuse me. Where it says that?</p> <p>4 Q. At the very top, right above the words 5 "United States."</p> <p>6 A. Yes, September 4th, 2013, yes, correct.</p> <p>7 Q. And you were a director at that time.</p> <p>8 A. Yes.</p> <p>9 Q. So, you knew of this business transaction 10 involving an entity named "Weiser Capital Limited," 11 correct?</p> <p>12 A. It's not correct.</p> <p>13 Q. Okay.</p> <p>14 A. May I explain?</p> <p>15 Q. You will have an opportunity to do so when 16 your counsel asks you questions.</p> <p>17 A. Thank you.</p> <p>18 Q. I'd like to now focus on the documents that 19 revolve around your submission of an application to 20 open an account at W.A.M., okay?</p> <p>21 A. Correct.</p> <p>22 Q. So, let's start, please, with Exhibit 7. 23 Exhibit 7 has been admitted into evidence and this 24 is an email exchange between yourself and Mr. Howard</p>	<p style="text-align: right;">Page 111</p> <p>1 Daniels, correct?</p> <p>2 A. Correct.</p> <p>3 Q. And you have copied an email address that 4 is L.PDAF2@gmail.com. Do you see that?</p> <p>5 A. Correct.</p> <p>6 Q. Whose email address is that?</p> <p>7 A. That's Mr. Lambros Pedafronimos.</p> <p>8 Q. That's your cousin Lambros', correct?</p> <p>9 A. Correct.</p> <p>10 Q. Why are you copying Lambros on this email 11 exchange with Mr. Howard Daniels regarding your 12 opening of an account with Weiser Asset Management?</p> <p>13 A. I was together with Mr. Pedafronimos -- 14 with Mr. Lambros Pedafronimos in Bahamas at that 15 time. Probably it was coordinated on the --</p> <p>16 Q. Sir, I don't want you to guess. 17 Sometimes--</p> <p>18 A. Don't guess. That's the true.</p> <p>19 Q. "I probably was going to do this," that 20 causes me some concern.</p> <p>21 Are you certain about what you're about to 22 testify to? Do you understand what I'm saying?</p> <p>23 A. Exactly, yes.</p> <p>24 THE COURT: Mr. Skarpelos, let me just</p>
<p style="text-align: right;">Page 112</p> <p>1 offer you some clarification. What Mr. Nork is 2 saying is that when you qualify what you're about to 3 say with "probably" or "maybe" or "I'm guessing" or 4 "I think probably," words like that, it sounds like 5 you're not sure.</p> <p>6 In court you're only supposed to testify to 7 things that you know, that you have personal 8 knowledge of. So. When you qualified it by saying 9 "probably," it sounded like you were guessing or 10 speculating why. So, I think what Mr. Nork is 11 saying is that, if you're sure, just tell him what 12 you're saying. If you're guessing, don't guess.</p> <p>13 Do you understand the difference?</p> <p>14 THE WITNESS: Yes. Thank you.</p> <p>15 THE COURT: For the court reporter, if 16 you'll notice we have a new court reporter every 17 day. Could you please spell Mr. Lambros 18 Pedafronimos' last name for her.</p> <p>19 MR. NORK: Your Honor, no. We have an 20 eminently qualified court reporter. She flew to 21 Athens to take the deposition.</p> <p>22 THE COURT: Well, lucky you. I apologize. 23 I did not look and see who the court reporter was. 24 I knew it was Litigation Services who went over</p>	<p style="text-align: right;">Page 113</p> <p>1 there but I didn't know who got to take the trip. 2 So, I will just know that you know how to spell all 3 the Greek names here.</p> <p>4 So, with that, Mr. Skarpelos, why don't we 5 allow Mr. Nork to ask you the question again, or 6 I'll just say it.</p> <p>7 Why was Lambros' email copied on this 8 exchange with Mr. Daniels exhibited in Exhibit 7, if 9 you know?</p> <p>10 BY MR. NORK:</p> <p>11 Q. Go ahead.</p> <p>12 A. I know. I got Lambros Pedafronimos plain 13 just for logistics to be with me on the way down -- 14 downtown in the casino in Bahamas. At the same time 15 I started to do some business with Mr. Howard 16 Daniels.</p> <p>17 Q. Okay. Just for logistics?</p> <p>18 A. Plain logistics and be with me.</p> <p>19 Q. Lambros -- and we're referring to Mr. 20 Lambros -- had no involvement in the opening of your 21 account.</p> <p>22 A. Not very much.</p> <p>23 Q. Okay. So, this email exchange is in May of 24 2011, the first one, from Mr. Daniels to you, and</p>

<p style="text-align: right;">Page 114</p> <p>1 you say -- and Mr. Daniels says, "I understand you 2 have some certificates that you would like to 3 courier in advance of opening your account with 4 Weiser." Do you see that? 5 A. Yes, sir. 6 Q. And then you respond on May 30th of 2011 7 by saying, "Thank you, Howard. Also I need the 8 forms to open account with Weiser Asset Management 9 Limited before I leave so we can deposit the Anavex 10 certificate in that account." 11 When you say "before I leave," where were 12 you at the time you sent this email? 13 A. Probably was in Bahamas or on the way to 14 Bahamas. I don't remember. 15 Q. Okay. You testified at your deposition 16 that you may have been in Miami, correct? 17 A. Correct, yeah. 18 Q. Okay. Was Lambros with you in Miami? 19 A. Always, yes. 20 Q. Okay. If you were in The Bahamas and you 21 sent this email, would Lambros have been with you at 22 that time? 23 A. Yes. 24 Q. Okay. So, you could have just told Lambros</p>	<p style="text-align: right;">Page 115</p> <p>1 that you're meeting with Howard Daniels, correct? 2 A. No. 3 Q. You didn't need to copy him an on email. 4 A. Yes. 5 Q. You did need to copy? 6 A. I copy, yes. 7 Q. Okay. Turn, please, to Exhibit 2. This is 8 your application for opening the W.A.M. account, 9 correct? 10 A. Correct. 11 Q. Okay. And I believe you testified that 12 Howard Daniels assisted you in filling out this 13 form, correct? 14 A. Correct. 15 Q. Was Lambros present when you filled out 16 this form? 17 A. Yes. 18 Q. Did he assist you in filling out this form? 19 A. Lambros was too young to assist me. 20 Usually he translate. 21 Q. So, he may have translated for you. 22 A. Some things, some words which I don't 23 understand. 24 Q. Okay. Do you see on -- you see the page</p>
<p style="text-align: right;">Page 116</p> <p>1 number in the lower right-hand corner of each 2 document, can you turn, please, to Weiser 356. 3 A. Yes. 4 Q. Do you have it? 5 A. Yes. 6 Q. Okay. The bottom half of that document 7 relates to your net worth and your annual income. 8 Do you see that? 9 A. Correct. 10 Q. Okay. And the box is checked under annual 11 income for the range of \$250,001 to \$500,000. 12 A. Correct. 13 Q. And that's not a correct statement, right? 14 A. No. It's -- it reflects the value of my 15 stock at that point and Mr. Howard Daniels is 16 figuring I should be in this box. 17 Q. Did you have an annual income between 18 \$250,000 and \$500,000? 19 A. No. 20 Q. You didn't have any income, correct? 21 A. No. Correct. 22 Q. Okay. I'll get better at asking you 23 questions. But your testimony is that during this 24 time period in 2011 you had no income whatsoever.</p>	<p style="text-align: right;">Page 117</p> <p>1 A. No. 2 Q. So, you didn't have an annual income 3 between \$250,000 and \$500,000, correct? 4 A. Correct. 5 Q. Okay. Did you have a net worth between \$1 6 million and \$3 million? 7 A. Correct. 8 Q. Yes? 9 A. Yes. 10 Q. And that was represented by your ownership 11 of Anavex stock, correct? 12 A. Yes. 13 Q. The next page, please, Weiser 357. 14 A. Yes. 15 Q. You indicate on the top half of that page 16 under the question "What's the earliest you expect 17 to need funds from this account," the box is checked 18 "Under three years," correct? 19 A. Correct. 20 Q. And that is the shortest available time 21 frame under the range of choices when filling out 22 this application, correct? 23 A. Correct. Yes. 24 Q. And what did you understand you meant by</p>

<p style="text-align: right;">Page 118</p> <p>1 checking the box that within three years is the 2 earliest you would expect to need funds from this 3 account? 4 A. I figure I've been investing in the company 5 from 2005, six and seven. So, three years from '11 6 is '14, so we're talking about seven years, I should 7 be making some money, cash out some of my stock. 8 That's in general what was in my mind to check in 9 this box. 10 Q. Okay. Does this talk about selling stock? 11 A. That's the only way for me to make money. 12 Q. But the question doesn't refer to the sale 13 of stock, does it? It just says, "When do you 14 expect to need funds from this account?" 15 A. That's what it says, yes. 16 Q. And you said in less than three years you 17 expect to need funds from this account? 18 A. Yes. 19 Q. Turn, please, to Weiser 359. At the top 20 the question is, "How will you fund this account?" 21 Again, the same language, the same word "fund" 22 regarding the account, correct? 23 A. I'm not high educated person so the English 24 is very plain to me the way I understand it. I</p>	<p style="text-align: right;">Page 119</p> <p>1 understand money, it's cash, funds. 2 Q. But the question is -- so, the question 3 under Section 4 on this page is, "Please tell us how 4 you are funding this account. Check all that 5 apply." Do you see that? 6 A. Yes. 7 Q. And you checked, "Funds from another 8 account" and also checked "Other certificate for 9 AVXL," which is Anavex? 10 A. Correct. 11 Q. Now, you never put funds into the account, 12 correct? 13 A. Correct. 14 Q. But you did deposit with W.A.M. your Anavex 15 certificates, correct? 16 A. Correct. 17 Q. And that's how you were funding this 18 account. 19 A. I left the certificates with people in 20 Bahamas. All these boxes have been checked by the 21 hand of Howard Daniels. 22 Q. Lambros was there to assist you if you 23 didn't understand, correct? 24 A. I understand very well, but it was --</p>
<p style="text-align: right;">Page 120</p> <p>1 Howard Daniels is the expert. I was not the expert 2 to fill out this application form. 3 Q. You were allowed to ask him as many 4 questions as you wanted, correct? 5 A. Correct. 6 Q. And if you didn't understand, Lambros was 7 there to help, right? 8 A. This was in early stage of preliminary 9 paperwork. Mr. Howard Daniels explained to me that 10 point. In the process of opening my account in the 11 broker form, it's going to be additional information 12 in the paperwork it says. So, far as I know at that 13 point, it was very innocent and naive answers from 14 my side. 15 Q. So, I understand that testimony, you signed 16 this document expecting there to be more detailed 17 documents later. 18 A. Of course. 19 Q. Okay. You didn't think that this was 20 necessary for opening the account and that that's 21 all there was? 22 A. This is not enough to open an account, 23 correct. 24 Q. Okay. But, in any event, the box is</p>	<p style="text-align: right;">Page 121</p> <p>1 checked that you were funding the account with 2 certificates of Anavex stock. On the previous page 3 you indicated that within three years you expect to 4 need funds from this account. 5 A. Correct. 6 Q. Also on page 359 is the discussion of 7 buying a cash account or margin account. 8 Do you remember that? 9 A. Correct. 10 Q. Do you remember being asked under direct 11 examination? 12 A. Yes. 13 Q. And your testimony -- because I wrote it 14 down -- was that "margin is for borrowing money from 15 my stock certificates." 16 A. Correct. That's my understanding. 17 Q. But that's not at all what this section 18 says, correct? 19 A. Again, with all the respect, I understand 20 margin if I borrow money, if I put my certificate. 21 That's what I knew in the United States. That's 22 what I knew in Canada. 23 So, my understanding here is I don't have 24 money, I don't have cash to put in the account, so I</p>

<p style="text-align: right;">Page 122</p> <p>1 put my stocks there. And if in the future I like to</p> <p>2 sell my stocks to create cash, I sell my stocks.</p> <p>3 That's what my understanding of the explanatory from</p> <p>4 Mr. Howard Daniels.</p> <p>5 Q. Okay.</p> <p>6 A. I don't understand where you got it in this</p> <p>7 preliminary paper.</p> <p>8 Q. We had this issue during your deposition.</p> <p>9 If you would just please focus on answering my</p> <p>10 question, you're time on the stand will be a whole</p> <p>11 lot shorter.</p> <p>12 My question is, Page 359 provides a</p> <p>13 description of what a margin account is and what a</p> <p>14 cash account is, correct?</p> <p>15 A. Correct.</p> <p>16 Q. And that is very different than the way you</p> <p>17 described your understanding to me when you were</p> <p>18 testifying, correct?</p> <p>19 A. I'm not a legal person.</p> <p>20 Q. Okay. You had every opportunity to ask Mr.</p> <p>21 Daniels questions when you were there, correct?</p> <p>22 A. That's the way he explained, that was my</p> <p>23 understanding.</p> <p>24 Q. And Lambros was there to help translate if</p>	<p style="text-align: right;">Page 123</p> <p>1 you needed it.</p> <p>2 A. Lambros is an educated person.</p> <p>3 THE COURT: Mr. Skarpelos, you're not</p> <p>4 answering the questions that Mr. Nork is asking you,</p> <p>5 because you're answering them so quickly. I always</p> <p>6 tell people it's good idea to listen to the question</p> <p>7 and take a second to think about it before you</p> <p>8 answer the question.</p> <p>9 So, you just started talking about Lambros</p> <p>10 and providing an answer about Lambros that had</p> <p>11 nothing to do with Mr. Nork's question. It's your</p> <p>12 thought about Lambros when you hear "Lambros" and</p> <p>13 you're thinking about the context of what you're</p> <p>14 talking about but it wasn't responsive to Mr. Nork's</p> <p>15 question.</p> <p>16 One of the jobs that I have to have as the</p> <p>17 judge in the case, not the finder of fact but the</p> <p>18 judge, is to control the method and the order of the</p> <p>19 interrogation of the witnesses. So, that's what I'm</p> <p>20 doing now. I'm just letting you know. Just listen</p> <p>21 to Mr. Nork's question and then just answer that</p> <p>22 question.</p> <p>23 THE WITNESS: Okay.</p> <p>24 THE COURT: Don't provide something that's</p>
<p style="text-align: right;">Page 124</p> <p>1 other than that answer. And if you don't understand</p> <p>2 the question, I want you to be sure to say "I don't</p> <p>3 understand the question" and then he'll rephrase it</p> <p>4 for you.</p> <p>5 THE WITNESS: Thank you.</p> <p>6 THE COURT: Mr. Nork, let's start again.</p> <p>7 BY MR. NORK:</p> <p>8 Q. My question was this: Your testimony of</p> <p>9 what you believed a margin account was is that a</p> <p>10 margin is for borrowing money from my stock</p> <p>11 certificates.</p> <p>12 And my question is, Isn't that different</p> <p>13 than the written description of what a margin</p> <p>14 account is on page 359 of Exhibit 2?</p> <p>15 A. I don't understand the question.</p> <p>16 Q. What part didn't you understand?</p> <p>17 A. I'm not an expert to understand this kind</p> <p>18 of stuff.</p> <p>19 Q. I'm not asking you to be an expert. I'm</p> <p>20 just asking you if your testimony is different than</p> <p>21 what is written on the page.</p> <p>22 A. If I remember correct in my testimony all</p> <p>23 the way to now, I check, don't have margin in my</p> <p>24 account. That means I don't like Weiser to borrow</p>	<p style="text-align: right;">Page 125</p> <p>1 me money, to give me money. That's my</p> <p>2 understanding.</p> <p>3 Q. Let me ask it a different way. I think you</p> <p>4 understand but let me try to assist you.</p> <p>5 A. Yes.</p> <p>6 Q. On Weiser 359 right in the middle of the</p> <p>7 page there's a sentence that starts "In a cash</p> <p>8 account." Do you see that?</p> <p>9 A. Where about is that?</p> <p>10 Q. Right in the middle of the page there's a</p> <p>11 sentence that begins "In a cash account."</p> <p>12 A. "In a cash account," yes, "you pay for your</p> <p>13 securities." That line?</p> <p>14 Q. Yes. "In a cash account you pay for your</p> <p>15 securities in full at the time of purchase. In a</p> <p>16 margin loan account we may lend you a portion of the</p> <p>17 purchase price. This is called buying securities on</p> <p>18 margin." Did I read that correctly?</p> <p>19 A. Correct.</p> <p>20 Q. All right. That's different than your</p> <p>21 testimonial description of your understanding of a</p> <p>22 margin account. Isn't that correct?</p> <p>23 A. Can I explain what I check here in the</p> <p>24 books.</p>

<p style="text-align: right;">Page 126</p> <p>1 Q. You will have plenty of opportunity to</p> <p>2 explain on redirect. My question is whether or not</p> <p>3 your testimony is different than what's in writing.</p> <p>4 A. Don't remember my testimony. You have to</p> <p>5 show. Someone has to help me. Because what I check</p> <p>6 here I say exactly the same thing what I understand</p> <p>7 from the line you read, Mr. Nork, with all due</p> <p>8 respect.</p> <p>9 Q. I agree the "all due respect," sir, because</p> <p>10 I'm going to move on because I think the point has</p> <p>11 been made. Turn, please, to Exhibit 8. Actually,</p> <p>12 you know what, I'm sorry. Can you first turn to</p> <p>13 Exhibit 1. This is Stock Certificate 753.</p> <p>14 A. Correct.</p> <p>15 Q. All right. And this is the stock</p> <p>16 certificate that you deposited as part of submitting</p> <p>17 your application to open an account with W.A.M.,</p> <p>18 correct?</p> <p>19 A. I left them there, yes.</p> <p>20 Q. Well, you didn't just leave them there,</p> <p>21 right?</p> <p>22 A. Correct. I left them there.</p> <p>23 Q. Your email to Mr. Daniels is that you're</p> <p>24 going to, quote, Deposit the Anavex certificate in</p>	<p style="text-align: right;">Page 127</p> <p>1 that account," right?</p> <p>2 A. Yes.</p> <p>3 Q. That's what you put in writing, right?</p> <p>4 A. Yes.</p> <p>5 Q. You didn't just leave them on his desk and</p> <p>6 walk away.</p> <p>7 A. This is a selective email from Mr. Howard</p> <p>8 Daniels. He's called me before on my mobile phone</p> <p>9 and tell me they have alliances. The time I was</p> <p>10 there they explained very clearly in their</p> <p>11 attorney's office they have no alliances yet. They</p> <p>12 get them week by week. So, I left them there in the</p> <p>13 safety box of the attorney of that company that I</p> <p>14 was.</p> <p>15 Q. You said --</p> <p>16 A. So, I left them. I never deposited.</p> <p>17 Q. Okay. Exhibit 1 has a restriction in the</p> <p>18 upper left-hand corner, correct?</p> <p>19 A. Correct.</p> <p>20 Q. And your testimony yesterday was that your</p> <p>21 understanding was that the restriction was there</p> <p>22 because you were an insider, correct?</p> <p>23 A. Correct.</p> <p>24 Q. And we heard the testimony of Mr. Walker</p>
<p style="text-align: right;">Page 128</p> <p>1 this morning that says it doesn't have to do with an</p> <p>2 insider but, rather, it has to do with the fact that</p> <p>3 the stock was not publicly traded, correct?</p> <p>4 A. I'm not an expert like Mr. Walker. My</p> <p>5 understanding as an insider, as a holder of a major</p> <p>6 block of stock, they put the legend in my stock.</p> <p>7 That's all I know.</p> <p>8 Q. Okay. My question was just, Mr. Walker</p> <p>9 said the legend is there because the stock was not</p> <p>10 publicly traded. Your testimony is that the</p> <p>11 restriction was there because you were an insider,</p> <p>12 correct?</p> <p>13 A. Correct.</p> <p>14 Q. And those two explanations are different,</p> <p>15 correct?</p> <p>16 A. I don't understand. I can't explain Mr.</p> <p>17 Walker's language. My understanding it's the same</p> <p>18 thing, I explain it differently.</p> <p>19 Q. Okay. You're saying you're not an expert,</p> <p>20 correct?</p> <p>21 A. I'm not an expert in the securities in the</p> <p>22 legal world.</p> <p>23 Q. You testified a lot about the inner</p> <p>24 workings of trading securities yesterday, though,</p>	<p style="text-align: right;">Page 129</p> <p>1 correct?</p> <p>2 A. Buy and sell stocks doesn't make me an</p> <p>3 expert in legality of securities.</p> <p>4 Q. I don't disagree. Turn, please, to now</p> <p>5 Exhibit 8, one of the forms that you completed to</p> <p>6 open up your W.A.M. account, correct?</p> <p>7 A. Correct.</p> <p>8 Q. And now you're testifying today that these</p> <p>9 were just preliminary forms, correct?</p> <p>10 A. Correct.</p> <p>11 Q. But you didn't testify to that effect</p> <p>12 yesterday, correct?</p> <p>13 A. Mr. Nork, I'm losing the back and forth.</p> <p>14 Can you please help me understand.</p> <p>15 Q. You described Exhibit 8 and Exhibit 2</p> <p>16 yesterday as preliminary forms.</p> <p>17 A. Yes.</p> <p>18 Q. That's your recollection.</p> <p>19 A. Yes, yes. As an application forms for a</p> <p>20 process of opening an account.</p> <p>21 Q. Okay.</p> <p>22 A. It was incomplete process, as far as I see</p> <p>23 it.</p> <p>24 Q. What else did you understand you had to</p>

<p style="text-align: right;">Page 130</p> <p>1 sign in order to open the account besides the</p> <p>2 application and Exhibit 8, the identity verification</p> <p>3 form?</p> <p>4 A. From the little that I know, because I know</p> <p>5 very little bit about this kind of stuff --</p> <p>6 Q. And I don't want you to guess.</p> <p>7 A. No, no, I don't guess. I know exactly.</p> <p>8 Q. Okay. Tell me exactly, then.</p> <p>9 A. Exactly I should have -- in the terms and</p> <p>10 conditions that day, I should have the banking</p> <p>11 instructions and whole bunch of papers. This is</p> <p>12 very early stage preliminary opening account form.</p> <p>13 Q. Didn't you testify that a computer system</p> <p>14 was not yet up and running yesterday?</p> <p>15 A. Yes. Yes. I testified yesterday the</p> <p>16 platform, because I was asked yesterday about the</p> <p>17 platform.</p> <p>18 Q. Let's focus, if we could, please, on</p> <p>19 Exhibit 8.</p> <p>20 A. Okay.</p> <p>21 Q. This is the document you filled out as part</p> <p>22 of opening your account.</p> <p>23 A. Correct.</p> <p>24 Q. It's your signature on the second page,</p>	<p style="text-align: right;">Page 131</p> <p>1 Weiser 363, correct?</p> <p>2 A. Correct.</p> <p>3 Q. That's a copy of your passport, Weiser 364,</p> <p>4 correct?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. The next page has been described as</p> <p>7 a copy of your utility bill, correct?</p> <p>8 A. Correct.</p> <p>9 Q. And the next page is a letter from Alpha</p> <p>10 Bank, correct?</p> <p>11 A. Correct.</p> <p>12 Q. It's a terrible copy, but what does this</p> <p>13 letter say on 366?</p> <p>14 A. I have in the time that they sent me --</p> <p>15 Alpha Bank sent me credit card, because I never have</p> <p>16 any bank account to give reference letter to</p> <p>17 Weiser's people which they asked me for utility bill</p> <p>18 and reference from the bank because I never have any</p> <p>19 active account in the bank.</p> <p>20 The bank said to me I have inactive credit</p> <p>21 card, so because I have it I convinced the lady in</p> <p>22 the bank to give me a letter I have an account</p> <p>23 because it was in my name. Inactive, empty, but it</p> <p>24 was in my name, so I was able to provide the letter</p>
<p style="text-align: right;">Page 132</p> <p>1 to Weiser people for that evidence.</p> <p>2 Q. If I understand your testimony correctly,</p> <p>3 this page and then the last page of Exhibit 8, the</p> <p>4 letter from Alpha Bank is intended to state that</p> <p>5 you're a customer in good standing with the bank,</p> <p>6 correct?</p> <p>7 A. Yes.</p> <p>8 Q. But as you testified, you were not a</p> <p>9 customer in good standing with the bank, correct?</p> <p>10 A. I don't know how I can explain with \$1,000</p> <p>11 how good a customer I am. It's a credit card.</p> <p>12 Empty.</p> <p>13 Q. You did not have an active bank account</p> <p>14 with Alpha Bank, correct?</p> <p>15 A. Correct.</p> <p>16 Q. Because you didn't produce any records</p> <p>17 regarding Alpha Bank in this litigation.</p> <p>18 A. Correct.</p> <p>19 Q. So, how can you be a customer in good</p> <p>20 standing with Alpha Bank if you do not have an</p> <p>21 active bank account with them?</p> <p>22 A. The bank has to be asked.</p> <p>23 Q. I'm sorry? You said you persuaded somebody</p> <p>24 at Alpha Bank to write this letter, correct?</p>	<p style="text-align: right;">Page 133</p> <p>1 A. Correct.</p> <p>2 Q. Notwithstanding the fact that you did not</p> <p>3 have an active account.</p> <p>4 A. I don't have an active account. The bank</p> <p>5 knows me. It's a small community, so they know me.</p> <p>6 I'm a good citizen so they have no problem. I have</p> <p>7 no active account, I have the little credit card</p> <p>8 which I never use it very much, so they know me.</p> <p>9 They have no problem to say I'm a good citizen, good</p> <p>10 client as a reference. I never asked the bank to</p> <p>11 give me a letter to take a mortgage.</p> <p>12 Q. Well, the letter doesn't say you're a good</p> <p>13 citizen and a good. It says you're a customer in</p> <p>14 good standing with the bank, correct?</p> <p>15 A. The bank has to be asked. I don't know.</p> <p>16 Q. To your knowledge is this a true statement,</p> <p>17 that you're a customer in good standing with the</p> <p>18 bank?</p> <p>19 THE COURT: Don't answer that question, Mr.</p> <p>20 Skarpelos. Mr. Anderson.</p> <p>21 MR. ANDERSON: Your Honor, it's not really</p> <p>22 an objection. I can't read the entire contents of</p> <p>23 this exhibit so I trust Mr. Nork in representing</p> <p>24 what it says. I just -- I don't know if the witness</p>

<p style="text-align: right;">Page 134</p> <p>1 can read it as well, so I just want to put that on 2 the record and see if we can get some clarification. 3 THE COURT: Well, so far, Mr. Anderson, Mr. 4 Skarpelos has not indicated -- I was going to say a 5 double negative. Mr. Skarpelos has not indicated a 6 difficulty reading the letter. As soon as he does, 7 we'll address it. 8 MR. ANDERSON: Okay. And I guess my point 9 is I can't read it. For now I'll trust Mr. Nork's 10 representations. 11 THE COURT: I'd say my copy is spotty at 12 best. 13 MR. NORK: "Spotty" is a good description, 14 your Honor. 15 THE COURT: There are certain words that 16 you can clearly make out and there are other words 17 that I can't make out at all. I can read -- I don't 18 know what day it is, I don't know who it's to. I 19 can make out the signatures -- signatory's name in 20 the middle. It says something there about "letter 21 confirms that" -- and it just says "Atha," so I'm 22 assuming that's -- how do I say your name? 23 THE WITNESS: Athanasios. "Tom," for fast. 24 THE COURT: Athanasios. And under it it</p>	<p style="text-align: right;">Page 135</p> <p>1 says "Good standing of this bank." 2 THE WITNESS: Yes. 3 THE COURT: Under that "and has been a 4 client of this bank for" and I'm piecemealing things 5 together. But go ahead. 6 BY MR. NORK: 7 Q. Okay. Let me focus on the last few words 8 that I can read of the first paragraph. It says, 9 "Athanasios Skarpelos has operated a checking and 10 savings account." Do you see that? 11 A. Yes. 12 Q. That's not true at all, is it? 13 A. I don't understand -- yes, the bank -- if I 14 have \$1 inside that account because a little credit 15 card, probably that's what they mean. I'm not in 16 their back office to know of the bank. 17 THE COURT: Mr. Skarpelos, stop trying to 18 put too fine a gloss on this. The question that Mr. 19 Nork is asking you is, Did you have a checking and a 20 savings account at Alpha Bank at the time that this 21 document was written? 22 Don't try to explain it or why somebody 23 said or didn't say something. His question was very 24 direct and simple. Did you have a checking and</p>
<p style="text-align: right;">Page 136</p> <p>1 savings account or checking or savings at Alpha Bank 2 at the time this letter was drafted and provided to 3 Weiser? 4 THE WITNESS: No. 5 THE COURT: Next question. 6 BY MR. NORK: 7 Q. You did not, so this is not a true 8 statement in this letter, correct? 9 A. It's not correct. 10 Q. Okay. 11 A. May I explain? 12 Q. You will have an opportunity to under 13 questioning from Mr. Anderson. 14 A. Thank you. 15 Q. Can you turn, please, to Exhibit 59. This 16 is one of those emails you have to read from the 17 bottom up. 18 A. Correct. 19 Q. This is an email from Lambros to Christos, 20 correct? 21 A. Correct. 22 Q. And in response to that email from Lambros 23 to Christos, Christos testified that he then sent an 24 email to an individual named Rainbow that says "IR,</p>	<p style="text-align: right;">Page 137</p> <p>1 can you transfer \$20,000 as shareholder withdrawal 2 with details below as soon as possible. Tom had 3 heart attack and is waiting for payments to stay 4 alive." Do you see that? 5 A. Yes, yes. 6 Q. Do you recall Mr. Livadas paying to help 7 you pay for your surgery? 8 A. No. 9 Q. You don't recall any of that? 10 A. No. 11 Q. Who paid for your surgery? 12 A. My father. 13 Q. Okay. You don't recall -- and what's your 14 father's name? 15 A. Elias. 16 Q. Okay. Do you know who Nikolaos 17 Pentafronimos is? 18 A. Yes. 19 Q. And what is his relationship to you? 20 A. He's a young brother of my mother. He's my 21 uncle. 22 Q. Okay. Are you familiar with any -- the 23 name of any bank held by Mr. Pentafronimos, 24 Nikolaos?</p>

<p style="text-align: right;">Page 138</p> <p>1 A. I recognize the name "Alpha Bank." It's a 2 bank. 3 Q. Okay. And you recognize the address, 4 correct? 5 A. Yes. 6 Q. Because that's the village in which the 7 Pentafronimos family lives, correct? 8 A. Yes. 9 Q. Okay. And is this another instance like 10 Casad where money is being deposited into a 11 different account not held by you but for your 12 benefit? 13 A. No. 14 MR. ANDERSON: Objection, foundation. 15 THE COURT: The court won't -- what's the 16 objection you're making? 17 MR. ANDERSON: I think he just -- as I 18 understood his testimony, this is another example of 19 someone basically sending money to an account for 20 you, other than you, and I'm not sure Mr. Skarpelos 21 testified that this was for him. 22 MR. NORK: So, the answer would be "no," 23 then. 24 THE COURT: I'll let you clarify the</p>	<p style="text-align: right;">Page 139</p> <p>1 question or possibly rephrase it. 2 BY MR. NORK: 3 Q. I will rephrase it this way: Did you ask 4 Lambros to ask Christos to send money to your 5 uncle's account? 6 A. Of course not. 7 Q. Of course not. Can you see the reference 8 is for \$20,000 in the email from Christos to 9 Rainbow, correct? 10 A. Correct. 11 Q. Is that 20,000 U.S. or euros? 12 A. What it says here? You're asking me? 13 Q. Yes, sir. 14 A. It says "20,000." It has the U.S. on the 15 front and K. 20,000 U.S. dollars, it looks like. 16 Q. Okay. So, at least in late April Mr. 17 Livadas testified that he's asking for \$20,000 U.S. 18 to be transferred to the details below, which is 19 Nikolaos Pentafronimos' account, and the explanation 20 provided by Mr. Livadas is, "As soon as possible. 21 Tom had a heart attack and is waiting for payments 22 to stay alive," correct? 23 A. If he says so. 24 Q. Okay. Was there any issue in or about</p>
<p style="text-align: right;">Page 140</p> <p>1 April of 2013 that you needed payments to help you 2 stay alive as a result of your heart surgery? 3 A. From Mr. Livadas, no. 4 Q. From anyone. 5 A. No. 6 Q. Other than your father paying for your 7 surgery, did anyone else assist you financially 8 during this time? 9 A. Nobody has to pay because I have insurance. 10 It's automatically government insurance. Because as 11 a Greek citizen, I have insurance -- medical 12 insurance. 13 Q. You just testified that your father paid 14 for your surgery. 15 A. Yes, the little money to the hospital extra 16 which the insurance don't cover. As a Greek citizen 17 I'm allowed to have free medical care. 18 Q. Okay. Turn, please, to Exhibit 44. This 19 is a document already admitted into this case, which 20 has been described as a W.A.M. statement of account 21 for your account at W.A.M., correct? 22 A. That's what they say, yes. 23 Q. Okay. And if you look on the second page, 24 there's a listing of wire transfers coming out of</p>	<p style="text-align: right;">Page 141</p> <p>1 this W.A.M. account. 2 A. Yes. 3 Q. If you read down through them, every single 4 one of them but one is in a rounded dollar amount in 5 euros, correct? 6 A. That's what they say. 7 Q. So, for example, on March 25th, 2013, 8 there's a transfer of 10,000 euros. 9 Do you see that? 10 A. That's what it says here, yes. 11 Q. Okay. And in May of 2013 there's a 12 transfer of 15,000 euros, correct? 13 A. Yes. 14 Q. And then I'll skip down to July of 2013 and 15 there's an entry of 15,000 euros, correct? 16 A. Correct. 17 Q. Further down, August 2013, 15,000 euros, 18 correct? 19 A. Correct. 20 Q. And then in September 2013, 7,500 euros, 21 correct? 22 A. Correct. 23 Q. The only one that's not an even number is 24 the one in May of 2013 for 15,033.90, correct?</p>

<p style="text-align: right;">Page 142</p> <p>1 A. If you say so.</p> <p>2 Q. Well, that's what it says, right?</p> <p>3 A. If it says, yes.</p> <p>4 Q. Okay. And then under the debit column all</p> <p>5 of those entries that I just described we've already</p> <p>6 heard testimony where it's converted into U.S.</p> <p>7 dollars, correct?</p> <p>8 A. It's not my production so I don't know.</p> <p>9 Q. You heard that testimony, correct?</p> <p>10 A. From -- from yesterday?</p> <p>11 Q. Yes, it was from yesterday.</p> <p>12 A. From Mr. Livadas?</p> <p>13 Q. Yes, sir.</p> <p>14 A. Okay.</p> <p>15 Q. And so --</p> <p>16 A. Yes.</p> <p>17 Q. -- all that money is converted into U.S.</p> <p>18 dollars. And because the euro entries are in even</p> <p>19 dollar amounts, all the conversion figures are in</p> <p>20 uneven dollar amounts, dollars and cents, correct,</p> <p>21 except for one, and that is the one in May 2013 and</p> <p>22 there that dollar amount is \$20,000 exactly,</p> <p>23 correct?</p> <p>24 A. If it says so, yes.</p>	<p style="text-align: right;">Page 143</p> <p>1 Q. That's what it says, \$20,000 exactly, which</p> <p>2 converts to 15,033.90, correct?</p> <p>3 A. Correct.</p> <p>4 Q. All right. And that \$20,000,</p> <p>5 interestingly, correlates with exactly how much</p> <p>6 Christos asked Rainbow to transfer to the account</p> <p>7 information listed that Lambros provided him,</p> <p>8 correct?</p> <p>9 A. Mr. Christos Livadas say that? Okay.</p> <p>10 Q. And you don't believe that took place,</p> <p>11 correct?</p> <p>12 A. I believe this is -- this thing is not</p> <p>13 mine. This document is not mine so I don't know how</p> <p>14 to explain it.</p> <p>15 Q. Beginning with Exhibit 13, please, your</p> <p>16 Affidavit of Lost Stock Certificate, do you have it?</p> <p>17 A. Yes.</p> <p>18 Q. Now, we heard the testimony of Mr. Walker</p> <p>19 this morning where he explained that this document,</p> <p>20 Exhibit 13, is a NATCO form, correct?</p> <p>21 A. Correct.</p> <p>22 Q. And is it your handwriting that wrote down</p> <p>23 the date "January 10" at the bottom?</p> <p>24 A. Correct.</p>
<p style="text-align: right;">Page 144</p> <p>1 Q. And that's your signature, correct?</p> <p>2 A. Correct.</p> <p>3 Q. And that's your printed name, correct?</p> <p>4 A. Correct.</p> <p>5 Q. And at this time, January 2013, you were</p> <p>6 the sole director of Anavex?</p> <p>7 A. Correct.</p> <p>8 Q. Were you also the sole officer of Anavex at</p> <p>9 this time?</p> <p>10 A. I was everything.</p> <p>11 Q. Okay. So, yes?</p> <p>12 A. Yes.</p> <p>13 Q. You were president, secretary, and</p> <p>14 treasurer?</p> <p>15 A. Yes. I have to, yes.</p> <p>16 Q. All right. And what is the stamp in the</p> <p>17 lower right-hand corner?</p> <p>18 A. It's the signature verification from Mr.</p> <p>19 Christias, the attorney we have in Athens using for</p> <p>20 patent alliances for Anavex Life Sciences.</p> <p>21 Q. And you indicate that as of the date of</p> <p>22 this document, January 10th, 2013, Stock</p> <p>23 Certificates 660 and 753 had been lost, correct?</p> <p>24 A. Correct.</p>	<p style="text-align: right;">Page 145</p> <p>1 Q. And you're asking NATCO in this document to</p> <p>2 issue a new stock certificate to replace the lost</p> <p>3 stock, correct?</p> <p>4 A. Correct.</p> <p>5 Q. And then it says below the line "and</p> <p>6 further be resolved that should the original</p> <p>7 certificate ever be properly presented for transfer,</p> <p>8 NATCO is hereby instructed to transfer and reissue</p> <p>9 such certificate and the company agrees that it will</p> <p>10 take the appropriate action in regards to such</p> <p>11 certificate under the Uniform Commercial Code and/or</p> <p>12 Securities Act of 1933 as amended," correct?</p> <p>13 A. Correct.</p> <p>14 Q. That was in January 2013.</p> <p>15 A. Correct.</p> <p>16 Q. Almost four months later, you execute the</p> <p>17 next document that's part of getting a replacement</p> <p>18 certificate, correct?</p> <p>19 A. Four months later? When exactly?</p> <p>20 Q. End of March.</p> <p>21 A. Three months.</p> <p>22 Q. Well, January --</p> <p>23 A. January and March, yes, two months.</p> <p>24 Q. That's Exhibit 14, correct?</p>

<p style="text-align: right;">Page 146</p> <p>1 A. Exhibit 14?</p> <p>2 Q. Yes, sir.</p> <p>3 A. Yes, correct.</p> <p>4 Q. Okay. And this document starts off with --</p> <p>5 actually, you got this form from NATCO, correct?</p> <p>6 A. This form is from my securities attorney,</p> <p>7 Mr. Bernard Pinsky from Clark and Wilson. Together</p> <p>8 with Mr. Christias, they prepare it for me. They</p> <p>9 advised me.</p> <p>10 Q. Okay. And it begins with "I, Athanasios</p> <p>11 Skarpelos, hereby declare and affirm as follows."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. Do you know what it means to declare and</p> <p>15 affirm?</p> <p>16 A. Of course.</p> <p>17 Q. What does it mean?</p> <p>18 A. It means I say the truth and only the</p> <p>19 truth.</p> <p>20 Q. Okay. And you identify in this affidavit</p> <p>21 the two stock certificates?</p> <p>22 A. Yes.</p> <p>23 Q. And then you say at paragraph 5, "The</p> <p>24 present status of the certificate is as follows,"</p>	<p style="text-align: right;">Page 147</p> <p>1 and then you have circled "Lost" and then you</p> <p>2 handwrote "Lost," correct?</p> <p>3 A. Correct.</p> <p>4 Q. Then you had this notarized by Mr.</p> <p>5 Christias as well, correct?</p> <p>6 A. Yes. I circle "Lost" and write "Lost,"</p> <p>7 yes, correct.</p> <p>8 Q. And he stamped it, right?</p> <p>9 A. Yes.</p> <p>10 Q. And then there's a notary on the next page,</p> <p>11 correct?</p> <p>12 A. Yes.</p> <p>13 Q. And is that also Mr. Christias' notary?</p> <p>14 A. Correct.</p> <p>15 Q. What is the date of this document?</p> <p>16 A. This is March 28th.</p> <p>17 Q. 2013?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. Can you turn, please, to Exhibit 15.</p> <p>20 What is Exhibit 15?</p> <p>21 A. Stop Transfer Order.</p> <p>22 Q. Okay. Where did you get this document?</p> <p>23 A. It's all parceled together from the</p> <p>24 transfer agent. Looks like Mr. Bernard Pinsky from</p>
<p style="text-align: right;">Page 148</p> <p>1 Clark and Wilson sent it to me to execute.</p> <p>2 Q. Okay. It's got the stamp of Mr. Christias</p> <p>3 in the lower right-hand corner.</p> <p>4 A. Correct.</p> <p>5 Q. Okay. And it's got your signature right in</p> <p>6 the middle, correct?</p> <p>7 A. Correct.</p> <p>8 Q. And this is where, again, you represent</p> <p>9 that the stock Certificates Nos. 660 and 753 are</p> <p>10 lost, correct?</p> <p>11 A. Correct.</p> <p>12 Q. Okay. And this is March 29th, 2013,</p> <p>13 correct?</p> <p>14 A. Correct.</p> <p>15 MR. NORK: Your Honor, I don't know if you</p> <p>16 want me to--</p> <p>17 THE COURT: Well, I was waiting to see if</p> <p>18 that was the last area on those two documents that</p> <p>19 you would go with.</p> <p>20 MR. NORK: This is my last. I'm done with</p> <p>21 these documents.</p> <p>22 THE COURT: Okay. Now is a perfect time to</p> <p>23 take our afternoon recess. We will be in recess</p> <p>24 until approximately 1:15, Counsel. Court is in</p>	<p style="text-align: right;">Page 149</p> <p>1 recess.</p> <p>2 (Recess taken.)</p> <p>3 AFTERNOON SESSION</p> <p>4 THE COURT: Please be seated. We will go</p> <p>5 back on the record in CV15-02259, Weiser v.</p> <p>6 Skarpelos, and we will continue with Mr. Skarpelos'</p> <p>7 cross-examination. Counsel, before we do, I just</p> <p>8 have to do this because I'm so hyper-paranoid about</p> <p>9 the appearance of impropriety.</p> <p>10 I just want everyone to know that I rode up</p> <p>11 in the elevator with Mr. Livadas. We have two</p> <p>12 elevators in the entire building and we didn't</p> <p>13 discuss the merits of the case. My court clerk</p> <p>14 actually happened to be there as well. The only</p> <p>15 topic of the conversation was how interesting a</p> <p>16 medallion certification is. That's all we said in</p> <p>17 the 15-second elevator ride.</p> <p>18 But I think, you know, would a juror --</p> <p>19 given the fact I'm a finder of fact, would a juror</p> <p>20 ride in the elevator with a party? No, that</p> <p>21 shouldn't happen. But I told Mr. Livadas it</p> <p>22 wouldn't be a problem to ride up in the elevator</p> <p>23 with the court clerk and a member of the maintenance</p> <p>24 crew and myself. So, that did occur, Mr. Anderson,</p>

<p style="text-align: right;">Page 150</p> <p>1 just so you know.</p> <p>2 MR. ANDERSON: Thank you, your Honor.</p> <p>3 THE COURT: I think it was how I was</p> <p>4 raised. I just get so paranoid about looking like I</p> <p>5 did something wrong. I told Mr. Livadas he had</p> <p>6 nothing to be concerned about. I just wanted to put</p> <p>7 it on the record.</p> <p>8 MR. ANDERSON: I appreciate the disclosure.</p> <p>9 I have no concerns. Thank you.</p> <p>10 THE COURT: Mr. Skarpelos, you're still</p> <p>11 under oath. Do you understand that, sir?</p> <p>12 THE WITNESS: Yes.</p> <p>13 THE COURT: Excellent. Go ahead, Mr. Nork.</p> <p>14 MR. NORK: Thank you, your Honor.</p> <p>15 BY MR. NORK:</p> <p>16 Q. Mr. Skarpelos, you testified yesterday that</p> <p>17 you bought your initial stock in Anavex, correct?</p> <p>18 A. Correct.</p> <p>19 Q. How much did you pay for that initial</p> <p>20 stock?</p> <p>21 A. I don't remember -- I don't remember.</p> <p>22 Q. You don't have it?</p> <p>23 A. It's been a long time. I don't have my</p> <p>24 records with me. I don't remember the details.</p>	<p style="text-align: right;">Page 151</p> <p>1 Q. Where did the money come from to buy the</p> <p>2 initial stock?</p> <p>3 A. From the money -- I bought my stock before</p> <p>4 2007. It's family money.</p> <p>5 Q. Family money?</p> <p>6 A. Yes.</p> <p>7 Q. From what bank account?</p> <p>8 A. Pardon me?</p> <p>9 Q. From what --</p> <p>10 A. From my family trust.</p> <p>11 Q. Okay.</p> <p>12 A. The president. It's my father still.</p> <p>13 Q. Okay. Do you keep your own money in that</p> <p>14 family trust?</p> <p>15 A. I don't have my personal. It's a family</p> <p>16 trust, like I say.</p> <p>17 Q. Have you ever made deposits of your own</p> <p>18 funds into that family trust?</p> <p>19 A. Prior to 2006, yes, of course, at the time</p> <p>20 I moved back from Canada to Greece.</p> <p>21 Q. You opened your account or you submitted</p> <p>22 your paperwork to open your account with W.A.M. in</p> <p>23 or about May of 2011, correct?</p> <p>24 A. Correct.</p>
<p style="text-align: right;">Page 152</p> <p>1 Q. Do you recall what the value was of Anavex</p> <p>2 at that time?</p> <p>3 A. Pardon me?</p> <p>4 Q. Do you recall what the value was per share</p> <p>5 of Anavex at that time?</p> <p>6 A. I don't remember that.</p> <p>7 Q. Okay. It was well in excess of \$3 million</p> <p>8 if you had 6 million shares.</p> <p>9 A. I don't remember nothing. It says here</p> <p>10 3 million dollars -- 2, 3 million dollars.</p> <p>11 Probably, Mr. Howard Daniels he makes the figures.</p> <p>12 I don't remember.</p> <p>13 Q. Okay. One thing I didn't ask you about as</p> <p>14 part of the W.A.M. account application is Exhibit 9.</p> <p>15 Can you turn to that, please.</p> <p>16 Now, you testified before lunch that</p> <p>17 Lambros came with you to help translate.</p> <p>18 A. Correct.</p> <p>19 Q. And helped you with logistics when you were</p> <p>20 traveling from Miami to The Bahamas, correct?</p> <p>21 A. Correct.</p> <p>22 Q. Why, if you know, did Lambros submit a copy</p> <p>23 of his passport which was then certified by Equity</p> <p>24 Trust Bahamas?</p>	<p style="text-align: right;">Page 153</p> <p>1 A. I don't know that.</p> <p>2 Q. Were you present when Lambros presented to</p> <p>3 Mr. Daniels a copy of his passport?</p> <p>4 A. I don't remember.</p> <p>5 Q. Were you present when the copy of the</p> <p>6 passport was stamped by a representative of Equity</p> <p>7 Trust Bahamas.</p> <p>8 A. I don't remember that either because I used</p> <p>9 to smoke in that time. Probably I was in and out.</p> <p>10 I don't remember.</p> <p>11 Q. So, your testimony is that you had gone out</p> <p>12 for a cigarette and they got a copy of Lambros'</p> <p>13 passport?</p> <p>14 A. I don't remember that.</p> <p>15 Q. You don't remember anything about that.</p> <p>16 A. No, not about Lambros. I remember my</p> <p>17 application time I was there. This is a long time</p> <p>18 ago.</p> <p>19 Q. Okay.</p> <p>20 A. I don't remember nothing about Lambros.</p> <p>21 Zero.</p> <p>22 Q. And you never had any discussions with</p> <p>23 Lambros about him submitting a copy of his passport.</p> <p>24 A. I don't remember that either.</p>

<p style="text-align: right;">Page 154</p> <p>1 Q. And the fact that he would assist you with 2 withdrawing the money from the W.A.M. account. 3 A. Has nothing to do with that. 4 Q. It's just a strange coincidence that 5 there's a copy of his passport submitted as part of 6 your identification. 7 A. It's very strange to me, yes. 8 Q. Okay. You also testified when I was asking 9 about the difference between a cash account and a 10 margin account, that you don't understand the 11 legalities of buying and selling stock, correct? 12 A. I understand a little bit. 13 Q. Okay. Well, in fact, you're a founding 14 investor of Anavex, a biotech stock. 15 A. Correct. 16 Q. And you've also been a founding investor of 17 another biotech stock, correct? 18 A. Correct. 19 Q. And you've also been a founding investor of 20 an online health care company, correct? 21 A. Say that again. 22 Q. You've been the founding investor of an 23 online health care company? 24 A. When was that.</p>	<p style="text-align: right;">Page 155</p> <p>1 Q. Prior to opening your account with W.A.M. 2 A. Online? 3 Q. Yes, sir. A health company like Web 4 M.D.-type company. 5 A. That was before 2000. Back in the '90s. 6 Q. Okay. So, you've been involved in 7 investing in companies that buy and sell -- that had 8 stock ownership, correct? 9 A. Yes, correct. 10 Q. You've been doing that for years leading up 11 to May of 2011, correct? 12 A. Correct. Correct. 13 Q. You haven't just been residing on your 14 olive oil farm, correct? 15 A. No, no. 16 Q. Okay. Then just before we broke you were 17 talking about your Affidavit of Lost Certificate. 18 If I recall your testimony yesterday, it 19 was that in 2011 and 2012 and going into 2013 you 20 started hearing rumors about W.A.M., correct? 21 A. Correct. 22 Q. You started becoming suspicious about 23 W.A.M. and Mr. Livadas, correct? 24 A. Correct.</p>
<p style="text-align: right;">Page 156</p> <p>1 Q. And you mentioned something like your wife 2 being a psychologist and her having concerns as 3 well, correct? 4 A. Correct. 5 Q. Can you turn, please, to Exhibit 49. Last 6 sentence of the second paragraph says, "Mr. 7 Skarpelos tried many times to reach his contact at 8 Weiser to get his shares back but was unsuccessful 9 in connecting with anyone in authority and Mr. 10 Skarpelos was alarmed when Weiser then stopped 11 answering their phones." Do you see that? 12 A. Correct. 13 Q. Is that a true statement? 14 A. It is. 15 Q. And then you also stated in your 16 declaration that you couldn't reach anyone at Weiser 17 to make a demand to get your stock back. 18 Do you remember that? 19 A. Correct. 20 Q. Okay. Now, you were asked in this case to 21 provide all correspondence between you and Weiser, 22 and you've produced exactly none, correct? 23 A. I tried to -- I was asked -- 24 Q. Just a simple question. You've produced</p>	<p style="text-align: right;">Page 157</p> <p>1 none. 2 A. Yes, correct. 3 Q. Okay. You were asked to provide any 4 documentation demonstrating Weiser was not answering 5 its phones, and you've produced none, correct? 6 A. Correct. 7 Q. All right. Now, this letter, Exhibit 49, 8 says that "Mr. Skarpelos tried many times to reach 9 his contact at Weiser to get his shares back." 10 Who was your contact at Weiser? 11 A. Mr. Howard Daniels. 12 Q. Can you turn, please, to your deposition, 13 page 72. 14 A. Deposition? 15 Q. Yes, sir. Line 15 I asked the question, 16 "Let me ask a better question now. I'm interested 17 in people that you spoke to when they were at W.A.M. 18 "Answer: At W.A.M. in 2011 it was Howard, 19 Christos. 20 "Question: Charles? 21 "Answer: Charles, Leo, I believe those two 22 and Stelios, the IT guy. 23 "Question: Did you say Christos as well? 24 "Answer: Yes. Christos was -- he was the</p>

<p style="text-align: right;">Page 158</p> <p>1 boss of everything.</p> <p>2 "Question: And during what period of time</p> <p>3 was he the boss of everything?</p> <p>4 "Answer: From the time they start to spoke</p> <p>5 with me about Weiser in 2010 or 2011, something like</p> <p>6 that." Did I read that correctly?</p> <p>7 A. Correct.</p> <p>8 Q. Can you turn, please, to page 161 of your</p> <p>9 deposition. Line 16, "Question: Okay. I guess</p> <p>10 that's my point. You saw Christos a lot and spoke</p> <p>11 to him a lot and exchanged emails with him a lot in</p> <p>12 2011 and 2012.</p> <p>13 "Answer: Yes.</p> <p>14 "Question: What did you understand</p> <p>15 Christos' relationship to be with W.A.M.?</p> <p>16 "Answer: With Weiser, he is owner</p> <p>17 100 percent, undisputed owner with everything there</p> <p>18 in Bahamas." Did I read those correctly?</p> <p>19 A. Correct.</p> <p>20 Q. You testified that Christos was one of your</p> <p>21 primary contacts at W.A.M., correct?</p> <p>22 A. Correct.</p> <p>23 Q. And that's at page 162, right?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 159</p> <p>1 Q. At line 4 -- actually, you know what.</p> <p>2 Let's start at 161. I'm sorry. Line 24.</p> <p>3 "Question: Do you know when he became, as</p> <p>4 you call it, the undisputed owner?" Then onto 162.</p> <p>5 "Answer: From the early days he was the</p> <p>6 first guy from all of us we knew, he moved to</p> <p>7 Bahamas from United States for his own reasons way</p> <p>8 before 2010.</p> <p>9 "Question: Was he your primary contact at</p> <p>10 W.A.M.?</p> <p>11 "Answer: He was the owner. He was the</p> <p>12 only guy there, him and Mr. Howard Daniels, those</p> <p>13 two. There was nobody else.</p> <p>14 "Question: My question is, Was he a</p> <p>15 primary contact at W.A.M.?</p> <p>16 "Answer: Christos and Howard Daniels, both</p> <p>17 of them.</p> <p>18 "Question: So yes?</p> <p>19 "Answer: Yes." Did I read that correctly?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. Now, you also testified yesterday</p> <p>22 that during the time period that you claim you were</p> <p>23 suspicious and heard rumors and became concerned,</p> <p>24 you ran into another W.A.M. employee, Leo Souros,</p>
<p style="text-align: right;">Page 160</p> <p>1 correct?</p> <p>2 A. Correct.</p> <p>3 Q. And you asked him where your stock</p> <p>4 certificates were, correct?</p> <p>5 A. Correct.</p> <p>6 Q. And he said talk to Christos.</p> <p>7 A. Correct.</p> <p>8 Q. Now, you had no problem communicating with</p> <p>9 Christos between 2011 and mid 2013, correct?</p> <p>10 A. Correct.</p> <p>11 Q. You exchanged emails with him, correct?</p> <p>12 A. Correct.</p> <p>13 Q. You traveled with him, correct?</p> <p>14 A. Correct.</p> <p>15 Q. And in fact, you had traveled to Miami with</p> <p>16 him, correct?</p> <p>17 A. If I remember. Maybe yes.</p> <p>18 Q. You met each other in Hong Kong, correct?</p> <p>19 A. Correct.</p> <p>20 Q. In Croatia?</p> <p>21 A. Yes.</p> <p>22 Q. And France, correct?</p> <p>23 A. Yes.</p> <p>24 Q. By the way, how did you pay for all that</p>	<p style="text-align: right;">Page 161</p> <p>1 travel?</p> <p>2 A. Mostly he's covering.</p> <p>3 Q. Mr. Livadas paid for it?</p> <p>4 A. Yes.</p> <p>5 Q. What about the rest?</p> <p>6 A. What rest? The tickets? Mr. Christos</p> <p>7 Livadas provide the tickets.</p> <p>8 Q. Okay. What about other travel? Did you</p> <p>9 pay for it yourself?</p> <p>10 A. To travel where?</p> <p>11 Q. Anywhere when you met with Mr. Livadas</p> <p>12 internationally.</p> <p>13 A. He's invited me to China to see his boat</p> <p>14 show there. He's paid for my tickets and my hotels.</p> <p>15 And he's invited me to Croatia to his private luxury</p> <p>16 yacht. He's paid for everything.</p> <p>17 THE COURT: I'm sorry. That's the first</p> <p>18 time you said something I didn't understand.</p> <p>19 Where did he invite you to go to see his</p> <p>20 luxury yacht?</p> <p>21 THE WITNESS: Croatia.</p> <p>22 THE COURT: In Croatia. Thank you.</p> <p>23 BY MR. NORK:</p> <p>24 Q. You're saying that all that travel was paid</p>

<p style="text-align: right;">Page 162</p> <p>1 for by Mr. Livadas, not you.</p> <p>2 A. Most of the European travel Mr. Livadas is</p> <p>3 picking me up in his private jet from Athens</p> <p>4 Airport.</p> <p>5 Q. The question, sir is really simple. The</p> <p>6 question is, Did Mr. Livadas pay for all of that</p> <p>7 travel?</p> <p>8 A. He has his private jet. I believe so, yes.</p> <p>9 Q. Okay. You exchanged countless emails</p> <p>10 between you and Mr. Livadas.</p> <p>11 A. Lots of them, yes.</p> <p>12 Q. And you talked to him and saw him in</p> <p>13 person, correct.</p> <p>14 A. Not every day but occasionally, yes.</p> <p>15 Q. Okay. Despite all of that and despite you</p> <p>16 believing that Mr. Livadas was the boss man,</p> <p>17 100 percent owner and primary contact at W.A.M., you</p> <p>18 stated under oath in your declaration that you</p> <p>19 couldn't reach your contact at W.A.M. to find out</p> <p>20 where your stock certificates were, correct?</p> <p>21 A. Correct. I mean, probably I mean Howard</p> <p>22 Daniels, yes.</p> <p>23 Q. Okay. Your attorney also wrote and said</p> <p>24 you couldn't reach your contacts at Weiser, and one</p>	<p style="text-align: right;">Page 163</p> <p>1 of your contacts at Weiser, as you testified under</p> <p>2 oath, was Mr. Livadas?</p> <p>3 A. Correct.</p> <p>4 Q. So, despite your ability to communicate</p> <p>5 with Mr. Livadas, you started the process in January</p> <p>6 of 2013 to cancel your stock, correct?</p> <p>7 A. Correct.</p> <p>8 Q. You knew exactly where your stock was,</p> <p>9 didn't you?</p> <p>10 A. Of course I knew.</p> <p>11 Q. Okay. It wasn't lost, was it?</p> <p>12 A. It is lost, yes.</p> <p>13 Q. The stock hasn't left -- from the time you</p> <p>14 opened the account in May of 2011 until the time you</p> <p>15 began submitting your application to have the stock</p> <p>16 certificate canceled, the stock never left the spot</p> <p>17 where you left it, correct?</p> <p>18 A. No, it's not correct. I never know that.</p> <p>19 Q. You never knew that.</p> <p>20 A. No.</p> <p>21 Q. And you never asked Mr. Livadas that.</p> <p>22 A. I asked him many times.</p> <p>23 Q. Your position is you submitted your</p> <p>24 Affidavit of Lost Stock Certificate because you</p>
<p style="text-align: right;">Page 164</p> <p>1 couldn't get in touch with anyone at W.A.M.,</p> <p>2 correct?</p> <p>3 A. Correct.</p> <p>4 Q. And you were talking to someone at W.A.M.</p> <p>5 virtually nonstop during that same time period,</p> <p>6 correct?</p> <p>7 A. Can I explain?</p> <p>8 Q. The answer's yes or no. You were talking</p> <p>9 to someone at W.A.M. during that same time period of</p> <p>10 time.</p> <p>11 A. One of them, yes.</p> <p>12 Q. One of them, okay.</p> <p>13 Now, at the time you began the process to</p> <p>14 have your stock certificates at W.A.M. canceled,</p> <p>15 what was Anavex's economic condition?</p> <p>16 A. Are we talking about the spring, early of</p> <p>17 2013?</p> <p>18 Q. January 2013 to the end of March 2013.</p> <p>19 A. Definitely it was -- I don't remember</p> <p>20 exactly the financials right off my head.</p> <p>21 Q. Okay. Let me assist you.</p> <p>22 MR. NORK: I'd like to have another</p> <p>23 document marked, your Honor. I provided a copy of</p> <p>24 this to Counsel prior to break.</p>	<p style="text-align: right;">Page 165</p> <p>1 THE COURT: Okay.</p> <p>2 MR. ANDERSON: I'm not sure what the</p> <p>3 document is that he'll use. I guess we'll continue</p> <p>4 to object to the addition of new documents without</p> <p>5 the establishment of some relevance to these and</p> <p>6 some basis for why they didn't discover them earlier</p> <p>7 than being printed out during the trial of this</p> <p>8 matter.</p> <p>9 THE COURT: Are you using it to refresh his</p> <p>10 recollection?</p> <p>11 MR. NORK: Absolutely, your Honor. He just</p> <p>12 testified he didn't know what the financial</p> <p>13 condition was of Anavex.</p> <p>14 THE COURT: Didn't recall.</p> <p>15 MR. ANDERSON: These are Securities and</p> <p>16 Exchange Commission documents, it appears. I'm not</p> <p>17 a securities lawyer. Mr. Skarpelos is the director</p> <p>18 of a public company traded on NASDAQ. I don't know</p> <p>19 what the questions are going to be. I know the</p> <p>20 securities industries is a heavily regulated area</p> <p>21 and nobody in my firm does securities regulations</p> <p>22 law.</p> <p>23 So, I'm fearful that questions might put to</p> <p>24 Mr. Skarpelos in a position where he's maybe</p>

<p style="text-align: right;">Page 166</p> <p>1 creating a problem for himself or the company. I</p> <p>2 want to put that on the record. I don't know if</p> <p>3 that's a real risk or not, but I'm not qualified to</p> <p>4 make that decision. If these issues had been raised</p> <p>5 earlier, then, perhaps, the discussion could have</p> <p>6 been had with qualified securities counsel.</p> <p>7 THE COURT: The witness is going to be</p> <p>8 allowed to refresh his recollection with the</p> <p>9 document. It will be marked 64, next in order.</p> <p>10 He's not testifying to the veracity of it.</p> <p>11 All the witness does when he refreshes his</p> <p>12 recollection is look at it and see if it refreshes</p> <p>13 his recollection. He's not testifying from the</p> <p>14 document or for the very veracity of the document.</p> <p>15 My evidence professor in law school said</p> <p>16 you can refresh somebody's recollection with a ham</p> <p>17 sandwich. It doesn't matter what the document or</p> <p>18 the item is. The rule does say something about a</p> <p>19 writing used to refresh recollection and it appears</p> <p>20 that that's what Mr. Nork is intending on doing.</p> <p>21 This is a six-page document. Which page</p> <p>22 would you direct him to?</p> <p>23 MR. NORK: Page 39 of 62.</p> <p>24 THE COURT: And I'm supposed to review it</p>	<p style="text-align: right;">Page 167</p> <p>1 in chambers but let me look at it.</p> <p>2 MR. NORK: Actually, 38 and 39 of 62. I'm</p> <p>3 sorry.</p> <p>4 THE COURT: Hold on.</p> <p>5 You're just talking about the financial</p> <p>6 figures referenced there?</p> <p>7 MR. NORK: Yes.</p> <p>8 THE COURT: You can use pages 38 and 39 to</p> <p>9 attempt to refresh the witness's recollection.</p> <p>10 Mr. Anderson, I'll note you're preserving</p> <p>11 your objection, and if some question comes up that</p> <p>12 you think Mr. Skarpelos should be concerned about a</p> <p>13 privileged response or exposure to other issues</p> <p>14 including issues regarding the Securities and</p> <p>15 Exchange Commission of the United States, make a</p> <p>16 contemporaneous objection. All we're doing now is</p> <p>17 refreshing his recollection.</p> <p>18 MR. ANDERSON: Thank you, your Honor. I'll</p> <p>19 try to do that. But I'm not necessarily qualified</p> <p>20 to know what may or may not be a mine field of</p> <p>21 securities issues.</p> <p>22 THE COURT: We're not diving into this</p> <p>23 document. That's not the purpose of this document.</p> <p>24 This is a public document.</p>
<p style="text-align: right;">Page 168</p> <p>1 Is that correct, Mr. Nork?</p> <p>2 MR. NORK: Yes, your Honor.</p> <p>3 THE COURT: So, it's a document that anyone</p> <p>4 who has the Web address noted on the bottom of the</p> <p>5 page could go and access. He's not testifying to</p> <p>6 the veracity of the document or to anything about</p> <p>7 the document. All he's seeing is if it's refreshing</p> <p>8 his recollection.</p> <p>9 MR. ANDERSON: Thank you, your Honor.</p> <p>10 You've noted it for the record and I appreciate</p> <p>11 that.</p> <p>12 MR. NORK: May I approach the witness, your</p> <p>13 Honor?</p> <p>14 THE COURT: You may.</p> <p>15 (Exhibit 64 marked.)</p> <p>16 BY MR. NORK:</p> <p>17 Q. Sir, would you turn, please, to page 39 of</p> <p>18 62 of marked Exhibit 64.</p> <p>19 A. Thirty-nine, yes, correct.</p> <p>20 Q. Right in the middle of that page is a</p> <p>21 paragraph entitled "Going concern."</p> <p>22 Do you see that?</p> <p>23 A. In this paragraph?</p> <p>24 Q. Yes, sir.</p>	<p style="text-align: right;">Page 169</p> <p>1 A. It says "Liquidity and capital resources.</p> <p>2 THE COURT: In the center of the page.</p> <p>3 MR. NORK: May I assist him, your Honor?</p> <p>4 THE COURT: You may.</p> <p>5 BY MR. NORK:</p> <p>6 Q. And this is what the document says -- first</p> <p>7 of all --</p> <p>8 THE COURT: That's not the proper way to do</p> <p>9 it. You don't read it to him. You ask him to look</p> <p>10 at it and ask if it refreshes his recollection.</p> <p>11 We're not going to read it into the record. If you</p> <p>12 want to direct him to a specific portion, like the</p> <p>13 paragraph on page 39, Mr. Nork, you can do so.</p> <p>14 MR. NORK: Thank you, your Honor. Let me</p> <p>15 lay a little foundation first.</p> <p>16 BY MR. NORK:</p> <p>17 Q. What is this document?</p> <p>18 A. The whole document is the 10-Q.</p> <p>19 Q. For what company?</p> <p>20 A. For Anavex Life Science.</p> <p>21 Q. And you're familiar with 10-Q documents?</p> <p>22 A. A little bit, yes.</p> <p>23 Q. And can you tell what the period is, the</p> <p>24 ending quarterly period?</p>

<p style="text-align: right;">Page 170</p> <p>1 A. March of 31st, 2013.</p> <p>2 Q. 2013.</p> <p>3 A. Yes.</p> <p>4 Q. Okay. You've reviewed 10-Qs for Anavex?</p> <p>5 A. Not very much. It's very difficult for me.</p> <p>6 The securities lawyer of the company or the</p> <p>7 secretary, they explain to me. I understand a</p> <p>8 little bit the picture. I don't understand the</p> <p>9 language inside.</p> <p>10 Q. All right. Look at the paragraph entitled</p> <p>11 "Going concern." Please review it and let me know</p> <p>12 when you've done so.</p> <p>13 THE COURT: Do what he asks you to do.</p> <p>14 (Witness reviewing document.)</p> <p>15 BY MR. NORK:</p> <p>16 Q. Okay. Having read this paragraph, does</p> <p>17 this refresh your recollection as to what the</p> <p>18 financial condition was of Anavex in early 2013?</p> <p>19 A. Like I said, yes, I understand.</p> <p>20 Q. Okay. And you understood that there was a</p> <p>21 possibility that Anavex may not be a going concern</p> <p>22 any longer.</p> <p>23 A. Usually in the public companies, the small</p> <p>24 public company, can be like up tomorrow morning and</p>	<p style="text-align: right;">Page 171</p> <p>1 not the next day. Financials change if I find the</p> <p>2 next investor.</p> <p>3 Q. You were aware, were you not, that your</p> <p>4 independent auditors were concerned that Anavex</p> <p>5 would no longer be a going concern?</p> <p>6 A. Always happens, yes.</p> <p>7 Q. And, in fact, on the previous page, page 38</p> <p>8 of 62 --</p> <p>9 A. Yes.</p> <p>10 Q. -- can you look at the paragraph that</p> <p>11 starts "As of March 31st, 2013."</p> <p>12 THE COURT: Look at it, but don't say</p> <p>13 anything. Mr. Anderson, do you have an objection?</p> <p>14 MR. ANDERSON: I do, your Honor. I don't</p> <p>15 know if he wants the witness to read it. I haven't</p> <p>16 heard a question where the witness doesn't say he</p> <p>17 doesn't remember, and I think that's what this</p> <p>18 exhibit is being used for, to refresh his memory.</p> <p>19 THE COURT: I'll sustain the objection.</p> <p>20 The witness has already testified he's refreshed his</p> <p>21 recollection using the exhibit, looking at Bates 39.</p> <p>22 So, I don't know that he can go back to page 38 and</p> <p>23 refresh it even more.</p> <p>24 He's testified he couldn't recall,</p>
<p style="text-align: right;">Page 172</p> <p>1 testified that he reviewed the document, it</p> <p>2 refreshed his recollection, and then testified again</p> <p>3 to your questions that the time frame identified</p> <p>4 January through March of 2013 Anavex was in a</p> <p>5 precarious financial position. So, if you've got an</p> <p>6 additional question, you can ask him.</p> <p>7 BY MR. NORK:</p> <p>8 Q. Do you recall at or about this time frame,</p> <p>9 March of 2013, how much cash Anavex had?</p> <p>10 A. Very much nothing.</p> <p>11 Q. Do you know exactly how much?</p> <p>12 A. Says here. That's why I was in the</p> <p>13 hospital for the bypass. This creates me my heart</p> <p>14 problems. The company was distressed financially,</p> <p>15 very bad position.</p> <p>16 Q. Okay. My question was, Do you know how</p> <p>17 much cash it had?</p> <p>18 A. It says here --</p> <p>19 THE COURT: Don't say "It says here"</p> <p>20 because then you're just reading from the document,</p> <p>21 which you're not supposed to do.</p> <p>22 Do you have an independent recollection of</p> <p>23 how much cash Anavex had on hand in March of 2013?</p> <p>24 THE WITNESS: No. Very little.</p>	<p style="text-align: right;">Page 173</p> <p>1 MR. NORK: To refresh your recollection,</p> <p>2 can you please turn to page 38 of 62. Have you read</p> <p>3 the sentence that begins "As of March 31, 2013" to</p> <p>4 yourself.</p> <p>5 A. Yes.</p> <p>6 Q. And does that refresh your recollection as</p> <p>7 to how much cash Anavex had?</p> <p>8 A. Yes.</p> <p>9 Q. How much did it have?</p> <p>10 A. \$487.</p> <p>11 Q. Less than \$500, correct?</p> <p>12 A. Yes, correct.</p> <p>13 Q. All right. So, Anavex was in a precarious</p> <p>14 financial condition at this time, correct?</p> <p>15 A. Very bad financial position, yes.</p> <p>16 Q. Five hundred bucks in its account.</p> <p>17 A. Correct.</p> <p>18 Q. You were the only director, correct?</p> <p>19 A. Correct.</p> <p>20 Q. Because the other two had left.</p> <p>21 A. Correct.</p> <p>22 Q. You were being threatened by NASDAQ that</p> <p>23 Anavex might be delisted, correct?</p> <p>24 A. Correct. I don't know -- I never see that.</p>

<p style="text-align: right;">Page 174</p> <p>1 Q. That's what you testified to yesterday.</p> <p>2 A. Pardon me?</p> <p>3 MR. ANDERSON: I'll object, your Honor. I</p> <p>4 think his testimony yesterday was that Anavex was</p> <p>5 listed on NASDAQ on October 26th of 2015.</p> <p>6 MR. NORK: I stand corrected.</p> <p>7 BY MR. NORK:</p> <p>8 Q. You were threatened to be delisted from the</p> <p>9 OTC stock trading.</p> <p>10 A. I never see any letter to say that. I</p> <p>11 don't remember.</p> <p>12 Q. Did you not testify yesterday that you were</p> <p>13 threatened -- in January through March of 2013 there</p> <p>14 was a possibility that Anavex was going to be</p> <p>15 delisted.</p> <p>16 A. This is threat to me like I -- this is a</p> <p>17 threat to me.</p> <p>18 THE COURT: Mr. Skarpelos, I'll interrupt</p> <p>19 you again. Listen to his question. The question</p> <p>20 wasn't what that document in front of you says. The</p> <p>21 question was, Did you testify yesterday that Anavex</p> <p>22 was going to be delisted in 2013? Am I paraphrasing</p> <p>23 it correctly?</p> <p>24 MR. NORK: Fair enough, your Honor.</p>	<p style="text-align: right;">Page 175</p> <p>1 THE COURT: Did you testify to that</p> <p>2 yesterday?</p> <p>3 THE WITNESS: Yes, correct.</p> <p>4 THE COURT: Yes, you did.</p> <p>5 BY MR. NORK:</p> <p>6 Q. So, Anavex was in bad economic condition in</p> <p>7 2013.</p> <p>8 A. Very bad.</p> <p>9 Q. Now, isn't it true, sir, that -- and this</p> <p>10 is all in the context of your Affidavit of Lost</p> <p>11 Stock Certificate that you were filling out at the</p> <p>12 same time, correct?</p> <p>13 A. Correct.</p> <p>14 Q. And as you also testified yesterday, you</p> <p>15 were about to go into heart surgery, correct?</p> <p>16 A. Correct.</p> <p>17 Q. So, your company's broke, your health is</p> <p>18 precarious, and you were, as you testified</p> <p>19 yesterday, trying to put your affairs in order,</p> <p>20 correct?</p> <p>21 A. My health it was -- it was preplanned. I</p> <p>22 planned that since 2008.</p> <p>23 Q. Okay. But it was all happening at the same</p> <p>24 time in early 2013, correct?</p>
<p style="text-align: right;">Page 176</p> <p>1 A. Yes.</p> <p>2 Q. Isn't it true, sir, that by filing your</p> <p>3 replacement stock certificate it allowed you to get</p> <p>4 your stock back from W.A.M. without having to bring</p> <p>5 your balance with W.A.M. current?</p> <p>6 A. I never have balance with W.A.M. This is</p> <p>7 wrong. And I never have an account with W.A.M.</p> <p>8 That's not was the reason I stopped -- I canceled my</p> <p>9 certificates. I never had any business with W.A.M.</p> <p>10 in that point.</p> <p>11 Q. Can you turn, please, to Exhibit 44.</p> <p>12 A. I have it.</p> <p>13 Q. Okay. Second page, please. You submitted</p> <p>14 your Affidavit of Lost Stock Certificate end of</p> <p>15 March 2013, correct?</p> <p>16 A. Correct.</p> <p>17 Q. And in Exhibit 44 just before the end of</p> <p>18 March 2013 this Exhibit 44 lists a wire transfer out</p> <p>19 of what is listed as your account at W.A.M. for</p> <p>20 10,000 euros, correct?</p> <p>21 A. That's what they say. It's not my</p> <p>22 printing.</p> <p>23 Q. Okay. And by filing for a replacement</p> <p>24 stock certificate, it allowed you to get your stock</p>	<p style="text-align: right;">Page 177</p> <p>1 back without having to bring the account, which at</p> <p>2 that time was \$153,000, current. Isn't that</p> <p>3 correct?</p> <p>4 A. No, that's not correct. This is not my</p> <p>5 statement, it's not my account, it's not my balance.</p> <p>6 Q. Okay. Nevertheless, three months later</p> <p>7 after you testified yesterday that you were</p> <p>8 suspicious of Mr. Livadas, you heard rumors about</p> <p>9 Mr. Livadas, you didn't know where your stock was,</p> <p>10 you, quote, were losing faith in Mr. Livadas. Three</p> <p>11 months later you started working with Mr. Livadas</p> <p>12 again to sell your stock. Isn't that correct?</p> <p>13 A. No, it's not correct.</p> <p>14 Q. It's not correct?</p> <p>15 A. I never start working. We discussed it.</p> <p>16 It's a big difference. In general we discussed it.</p> <p>17 Q. No. I'm talking about in June of 2013.</p> <p>18 A. Yes.</p> <p>19 Q. Three months after you had your stock</p> <p>20 certificate canceled --</p> <p>21 A. Yes.</p> <p>22 Q. -- you and Lambros started working with Mr.</p> <p>23 Livadas to sell your stock.</p> <p>24 A. He was insist, Mr. Livadas, to discuss</p>

<p style="text-align: right;">Page 178</p> <p>1 things but in preliminary stage. I was not sure in 2 that point I was ever going to do business with Mr. 3 Livadas but I tried to be fair with him because he 4 was my friend, I believe.</p> <p>5 Q. Well, so, I guess, the answer to my 6 question is yes, you started working with Mr. 7 Livadas?</p> <p>8 A. Discussing. It's a big difference in my 9 understanding.</p> <p>10 Q. Well, you started exchanging draft stock 11 sale agreements and powers of attorney, correct?</p> <p>12 A. Not with me directly. Through our common 13 friend Lambros Pedafronimos.</p> <p>14 Q. Well, hold on, sir. You have testified 15 that you were intimately involved in the 16 communications between Mr. Livadas and Lambros 17 regarding your sale of stock to the Chinese 18 investors. Do you remember that testimony?</p> <p>19 A. Correct.</p> <p>20 Q. Okay. So, you were involved in June of 21 2013, three months after canceling your stock 22 certificate because you didn't trust Mr. Livadas, 23 you were involved in trying to sell your stock with 24 the assistance of Mr. Livadas, correct?</p>	<p style="text-align: right;">Page 179</p> <p>1 A. Correct, his proposed discussions. I was 2 open to the discussions and his story. Eventually I 3 was right. That's why I never completed the 4 transaction --</p> <p>5 Q. Okay.</p> <p>6 A. -- I was like that way --</p> <p>7 Q. When you started -- I cut you off. I'm 8 sorry. Are you done?</p> <p>9 A. Yes.</p> <p>10 Q. When you decided to patch things up with 11 Mr. Livadas and have him go out and try to find 12 buyers of your stock, how much stock did you 13 ultimately consider selling?</p> <p>14 A. There was discussions again and proposed 15 for Mr. Livadas, and in order for him to make 16 commissions, that's his business.</p> <p>17 Q. Just answer the question, please.</p> <p>18 A. Yes.</p> <p>19 Q. You had reached an agreement to sell half 20 your position, correct?</p> <p>21 A. I never reached an agreement. It was 22 discussions and preliminary stage. It's a big 23 difference.</p> <p>24 Q. Fine. You and Lambros had discussions with</p>
<p style="text-align: right;">Page 180</p> <p>1 Mr. Livadas about selling half your position.</p> <p>2 A. Yes.</p> <p>3 Q. For \$250,000, correct?</p> <p>4 A. Correct.</p> <p>5 Q. As you have indicated, you were involved in 6 those discussions, as you characterized them, and so 7 was Lambros, correct?</p> <p>8 A. Lambros, yes, correct.</p> <p>9 Q. Turn to Exhibit 20. This document is 10 already in evidence.</p> <p>11 This is an email from Christos to Lambros 12 saying, "Lu, are you getting Tom's emails? Is he?" 13 And Lambros responds, "He will be active on Monday. 14 I brought him down to the village for some fresh 15 air. Quote, I monitor all of his correspondence." 16 Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. So, all three of you were involved 19 in discussing, as you characterize it, selling half 20 your position to Chinese investors for \$250,000, 21 correct?</p> <p>22 A. Correct.</p> <p>23 Q. And ultimately draft documents to that 24 effect were prepared, correct?</p>	<p style="text-align: right;">Page 181</p> <p>1 A. There was no draft documents. There were 2 sample documents.</p> <p>3 Q. Fine. Sample documents were prepared that 4 you signed and notarized, correct?</p> <p>5 A. Mr. Christos Livadas asked me --</p> <p>6 Q. It's a yes-or-no question, sir. 7 Sample documents were prepared that you 8 signed and notarized, correct?</p> <p>9 A. Yes, correct.</p> <p>10 Q. You said one of the reasons you were 11 considering this potential sale of half your 12 position for \$250,000 was because you believed that 13 these Chinese buyers might also become investors in 14 Anavex, correct?</p> <p>15 A. Strategic investors, yes, correct.</p> <p>16 Q. Yes. Strategic investors, that's what you 17 called them.</p> <p>18 A. Correct.</p> <p>19 Q. Where in the sample purchase and sale 20 agreement that you signed and notarized does it say 21 that these Chinese investors were going to become 22 strategic investors in Anavex?</p> <p>23 A. They never -- nowhere.</p> <p>24 Q. It doesn't say that anywhere, does it?</p>

<p style="text-align: right;">Page 182</p> <p>1 A. It says nothing about Chinese. It's a</p> <p>2 sample.</p> <p>3 Q. All it talks about is buying and selling</p> <p>4 stock, correct?</p> <p>5 A. It's a sample, correct.</p> <p>6 Q. Does the agreement you signed and notarized</p> <p>7 say anything about the buyer becoming an investor in</p> <p>8 Anavex?</p> <p>9 A. It says nothing about buyers. It was just</p> <p>10 a sample.</p> <p>11 Q. So, the answer's no, then, I guess.</p> <p>12 A. I don't know how can I phrase that. But it</p> <p>13 was a sample in that point. I was asked for</p> <p>14 samples.</p> <p>15 Q. Turn, please, to Exhibit 28. This is a</p> <p>16 document admitted into evidence and Mr. Livadas is</p> <p>17 sending an email to Lambros in response to receiving</p> <p>18 copies of a purchase and sale agreement.</p> <p>19 It says, "And don't forget they need to be</p> <p>20 notarized. Courier originals to Bouts."</p> <p>21 Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. At the time of this email of July 2nd,</p> <p>24 2013, did you understand that the deal to the</p>	<p style="text-align: right;">Page 183</p> <p>1 Chinese investors was close to being finalized?</p> <p>2 A. No. Preliminary discussions again.</p> <p>3 Q. In or about July of 2013 or any time</p> <p>4 thereafter, were you considering transferring your</p> <p>5 stock to anyone other than the Chinese investors?</p> <p>6 A. The dates again?</p> <p>7 Q. July of 2013 and any time from the rest of</p> <p>8 that year were you considering transferring your</p> <p>9 stock to anyone other than these potential Chinese</p> <p>10 investors?</p> <p>11 A. Sell stock.</p> <p>12 Q. Sell or give.</p> <p>13 A. Specifically the wording, if I was able --</p> <p>14 if I was willing to sell stock, other than the</p> <p>15 Chinese investors.</p> <p>16 Q. Yes, sir.</p> <p>17 A. To sell stock other than the Chinese</p> <p>18 investors we had discussed with Christos, I don't</p> <p>19 think so, no. I don't recall that, to sell stock</p> <p>20 specifically.</p> <p>21 Q. Why, again, did you notarize the sample</p> <p>22 agreement?</p> <p>23 A. It's a sample. I was asked for a sample.</p> <p>24 Q. That's your explanation.</p>
<p style="text-align: right;">Page 184</p> <p>1 A. That's what I was asked.</p> <p>2 Q. Okay. Can you turn, please, to your</p> <p>3 deposition, page 142. Do you have it?</p> <p>4 A. One second, please.</p> <p>5 Q. Yes, I have it. Line 20, question, so my</p> <p>6 question was, "What would be the purpose of sending</p> <p>7 these originals to Bouts if not to finalize the</p> <p>8 deal, if you know?</p> <p>9 "Answer: I don't know."</p> <p>10 Did I read that correctly?</p> <p>11 A. Correct.</p> <p>12 Q. Okay. And this was all taking place in</p> <p>13 June and July and thereafter in 2013, correct?</p> <p>14 A. Sometimes since summer 2013.</p> <p>15 Q. And can you turn to Exhibit 33. This is an</p> <p>16 email from Lambros to Mr. Livadas enclosing your</p> <p>17 attached notarized power of attorney and Stock Sale</p> <p>18 and Purchase Agreement, correct?</p> <p>19 A. Correct.</p> <p>20 Q. Can you turn, please, to the Stock Sale and</p> <p>21 Purchase Agreement, Exhibit 33, page 330.</p> <p>22 A. The first page.</p> <p>23 Q. Yes, sir.</p> <p>24 A. Correct, I have it.</p>	<p style="text-align: right;">Page 185</p> <p>1 Q. How many shares of stock are listed under</p> <p>2 this Stock Sale and Purchase Agreement?</p> <p>3 A. This one, it's empty one. 3,316,666</p> <p>4 shares.</p> <p>5 Q. 3,316,666 shares, correct?</p> <p>6 A. Yes, correct.</p> <p>7 Q. That wasn't half your position, though, was</p> <p>8 it?</p> <p>9 A. In that time?</p> <p>10 Q. Yes, sir.</p> <p>11 A. This half my position, yes, something like</p> <p>12 that. I think so.</p> <p>13 Q. Can you turn, please, to Exhibit 16.</p> <p>14 A. Yes.</p> <p>15 Q. Five months earlier in April of 2013 you</p> <p>16 had canceled Stock Certificate 660, you had canceled</p> <p>17 Stock Certificate 753, and it had all been turned</p> <p>18 into one stock Certificate 975, correct?</p> <p>19 A. Correct.</p> <p>20 Q. And Stock Certificate 975 contained</p> <p>21 6,725,832 shares of stock, correct?</p> <p>22 A. Correct.</p> <p>23 Q. Half of that is not 3.316 shares of stock,</p> <p>24 is it?</p>

<p style="text-align: right;">Page 186</p> <p>1 A. No. That's why earlier I say 3.3 million 2 shares stay here. It doesn't state half of that. 3 Q. You just testified you were selling half 4 your position. 5 A. That's what I thought, 6 million, half is 3 6 million off my head. But it says specifically here 7 it has the number "3.316." It doesn't say in the 8 brackets "half." It says the number. 9 Q. In your deposition page 186, line 13 10 "Question: In 2013 were you seeking to sell 11 3 million shares of your stock or 6 million? 12 "Answer: Half of my position. I believe 13 my position was 6.6 million, half of them. 3.3." 14 Do you see that? 15 A. Yes. 16 Q. You and I both know that half of 6,725,832 17 is not 3.316, correct? 18 A. Correct. That's why I say "I believe." 19 Q. So, half of your total position is, in 20 fact, 3,362,916, correct -- 21 A. Correct. 22 Q. -- which is different than the amount 23 listed in the Stock Purchase Agreement, correct? 24 A. That's why I say "I believe."</p>	<p style="text-align: right;">Page 187</p> <p>1 Q. I understand. It's just different than the 2 amount listed in the Stock Purchase Agreement, 3 correct? 4 A. I don't understand that. It's very 5 general. The questions in my deposition is very 6 general. That's why I ask, "I believe." I never 7 have my records. 8 Q. I understand that. Thank you. 9 A. Thank you. 10 Q. Half of your total stock position is not 11 what's listed in the Stock Purchase and Sale 12 Agreement, correct? 13 A. Correct, probably, yes. 14 Q. So, even through July of 2013 you're still 15 telling W.A.M. and Mr. Livadas that Certificate 753 16 exists, correct? 17 A. They never ask me. If the transaction 18 after the discussions we have in the summer with Mr. 19 Livadas -- Christos Livadas to sell my \$3.3 million, 20 or whatever is the final. This is -- the numbers 21 were very preliminary. They never asked me, number 22 one. I never have to tell them. And if the 23 transaction was completed according to the transfer 24 agent, they're gonna have the shares because I have</p>
<p style="text-align: right;">Page 188</p> <p>1 to fill up six series of documents plus the 2 documents we have here in order for the transaction 3 to be completed. So, pretty much the numbers can be 4 changed. This was very preliminary early stage. 5 Q. I understand. So, your testimony is you 6 never told them that 753 no longer exists because 7 they never asked you, correct? 8 A. It was Christos, Mr. Christos Livadas. If 9 the deal was going to finalize, definitely going to 10 coming down with our accountants and I will have 11 somebody to -- probably my securities lawyer in that 12 time, Mr. Bernard Pinsky, to help me to draw the 13 correct contracts and numbers. So, then I'm going 14 to fill it up the rest of the proper paperwork to 15 proceed with the transaction to be completed. 16 Q. Turn, please, to your deposition at page 17 116, line 24. "Question: But it's your testimony 18 that you never told W.A.M. 19 "Answer: I never told W.A.M.," correct? 20 A. Yes, correct. 21 Q. "Question: You never told them that you 22 were canceling the original certificates you had 23 deposited with them, correct? 24 "Answer: To whom?</p>	<p style="text-align: right;">Page 189</p> <p>1 "Question: That's what I'm asking. Did 2 you tell anyone at W.A.M.? 3 "Answer: There was changing people every 4 month there. 5 "Question: It's a simple question. 6 "Answer: No, I don't believe so." 7 Did I read that correctly? 8 A. Correct. 9 Q. Okay. Turn, please, to 156 of your 10 deposition, line 25 at the very bottom, "Question: 11 Well, you didn't tell Christos that you had canceled 12 the stock certificates, correct? 13 "Answer: Yes." Did I read that correctly? 14 A. Correct. 15 Q. All right. So in July of 2013 you're 16 listing the amount of stock that you're interested 17 in selling to the Chinese investors, the amount that 18 is half contained in 753, correct? 19 A. The amount again is flexible to change it. 20 The transaction goes through, you don't sell the 21 whole certificate. I sell what I have in the 22 transfer agent because the transfer agent is gonna 23 receive my letter of direction to transfer to the 24 new buyer the amount of shares I'm willing to sell.</p>

<p style="text-align: right;">Page 190</p> <p>1 So, in a preliminary stage probably it's</p> <p>2 half, half. Out of my mind or something, 3.3</p> <p>3 million shares. And I was not able to sell the</p> <p>4 whole certificate. The old certificate was gone.</p> <p>5 BY MR. NORK:</p> <p>6 Q. This is an email from Lambros to Mr.</p> <p>7 Livadas, correct --</p> <p>8 A. Yes.</p> <p>9 Q. -- of July 3rd, 2013? "Hi, Bud. Please</p> <p>10 find attached the updated Purchase and Sale document</p> <p>11 with the figures that were discussed. This is the</p> <p>12 version that will be notarized. Cheers, L.,"</p> <p>13 correct?</p> <p>14 A. Correct.</p> <p>15 Q. That doesn't say it's preliminary, correct?</p> <p>16 A. It's preliminary only way. There was</p> <p>17 samples, my signatures. There never was the</p> <p>18 accurate and finished documents. I never been</p> <p>19 advised with my securities lawyer. I never complete</p> <p>20 the rest of my documentation to support this sale</p> <p>21 and put them inside my finance with SEC. So, this</p> <p>22 is totally preliminary. That's why I say it all the</p> <p>23 way from day one.</p> <p>24 Q. Thank you. But it doesn't say</p>	<p style="text-align: right;">Page 191</p> <p>1 "preliminary" in that email, does it?</p> <p>2 A. This is not my email. It doesn't say it,</p> <p>3 of course.</p> <p>4 Q. You know, now you're distancing yourself</p> <p>5 from Lambros. So, sometimes you say yes, I work</p> <p>6 closely with Lambros, and then other times you say,</p> <p>7 I have no idea who Lambros was.</p> <p>8 MR. ANDERSON: Objection, your Honor. I</p> <p>9 think that misstates his testimony and is</p> <p>10 argumentative.</p> <p>11 THE COURT: Sustained. It is</p> <p>12 argumentative. You can ask another question, Mr.</p> <p>13 Nork.</p> <p>14 BY MR. NORK:</p> <p>15 Q. You testified previously that you</p> <p>16 communicated closely with Lambros and Mr. Livadas</p> <p>17 regarding this potential sale, correct?</p> <p>18 A. Correct.</p> <p>19 Q. And this email sent by Lambros to Christos</p> <p>20 doesn't say anything about the figures being</p> <p>21 preliminary, correct?</p> <p>22 A. Correct.</p> <p>23 Q. Okay. And so wouldn't you agree with me,</p> <p>24 sir, that someone who didn't know Certificate 753</p>
<p style="text-align: right;">Page 192</p> <p>1 had been canceled, it would appear that you were</p> <p>2 selling half your position in Certificate 753?</p> <p>3 A. Can you just help me?</p> <p>4 Q. I'll restate it. The 3,316,666 shares</p> <p>5 listed in the -- as you characterize -- preliminary</p> <p>6 Stock and Purchase Sale Agreement is exactly half of</p> <p>7 the number of the shares that were in Stock</p> <p>8 Certificate 753, correct?</p> <p>9 A. I don't know. I don't have a calculator</p> <p>10 with me. Probably half.</p> <p>11 THE COURT: It's simple math. I mean, and</p> <p>12 I'm not saying that in an insulting way at all to</p> <p>13 you, sir. It's not that difficult. But just so</p> <p>14 everybody's on the same page, I'll pull out the</p> <p>15 stock certificate, which is Exhibit 1, 3,316,666.</p> <p>16 MR. NORK: Thank you.</p> <p>17 THE COURT: That's half of the stock shares</p> <p>18 represented on Certificate 753. Again, I'm saying</p> <p>19 it's simple math. I'm not saying it's math that</p> <p>20 should be done in anyone's head. It's a big number.</p> <p>21 BY MR. NORK:</p> <p>22 Q. Sir, do you have any reason to doubt the</p> <p>23 accuracy of the figure that the Court just recited?</p> <p>24 A. No.</p>	<p style="text-align: right;">Page 193</p> <p>1 Q. All right. Changing gears a little bit and</p> <p>2 going back to that 2007 stock sale where you said</p> <p>3 you urgently needed the money and you wanted it sent</p> <p>4 to the Casad bank account, do you remember that?</p> <p>5 A. Yes, correct.</p> <p>6 Q. Do you recall reporting to the Securities</p> <p>7 and Exchange Commission that you had, in fact, sold</p> <p>8 that stock?</p> <p>9 A. Correct.</p> <p>10 Q. Okay. Do you recall what the price was</p> <p>11 that you told the SEC that you had sold that stock</p> <p>12 for?</p> <p>13 A. I don't remember off my head.</p> <p>14 I remember. It was something like \$1.6</p> <p>15 million. You show me -- you asked me in my</p> <p>16 deposition. It's an exhibit here, the contract with</p> <p>17 --</p> <p>18 Q. Let me assist you.</p> <p>19 MR. ANDERSON: Your Honor, I believe he</p> <p>20 just testified he remembered.</p> <p>21 THE COURT: He did. You can ask him a</p> <p>22 question about that but you don't need to refresh</p> <p>23 his recollection.</p> <p>24</p>

<p style="text-align: right;">Page 194</p> <p>1 BY MR. NORK:</p> <p>2 Q. Did you advise the Securities and Exchange</p> <p>3 Commission that you sold the 950,000 shares of</p> <p>4 Anavex stock in September 2007, that you had sold it</p> <p>5 for 1.7 dollars per share?</p> <p>6 A. I have to put the price on the transaction,</p> <p>7 correct.</p> <p>8 Q. The question is, Did you tell the SEC that</p> <p>9 you sold it for 1.7 dollars per share?</p> <p>10 A. That's what I told them, yes, correct.</p> <p>11 MR. ANDERSON: A dollar-seven or a</p> <p>12 dollar-seventy?</p> <p>13 MR. NORK: 1.7 dollars per share.</p> <p>14 THE WITNESS: Correct.</p> <p>15 BY MR. NORK:</p> <p>16 Q. And that's what you told the SEC.</p> <p>17 A. Correct.</p> <p>18 Q. And what does that work out to times</p> <p>19 950,000, if you know?</p> <p>20 A. Correct.</p> <p>21 Q. No. do you know what it works out to, the</p> <p>22 total amount?</p> <p>23 A. Out of the millions, I don't remember.</p> <p>24 Q. Okay. I will represent to you, sir, that</p>	<p style="text-align: right;">Page 195</p> <p>1 1.7 dollars per share times 950,000 shares is</p> <p>2 \$1,615,000.</p> <p>3 A. Okay.</p> <p>4 Q. Does that sound about right to you?</p> <p>5 A. Go ahead. Yes.</p> <p>6 Q. Okay. And do you have Exhibit 5 in front</p> <p>7 of you?</p> <p>8 A. Yes.</p> <p>9 Q. And that's exactly what the purchase and</p> <p>10 sale price was listed in this document, Exhibit 5,</p> <p>11 correct, 1.615 million?</p> <p>12 A. Correct.</p> <p>13 Q. Do you recall what address you told the</p> <p>14 Securities and Exchange Commission you were residing</p> <p>15 at at the time of this sale?</p> <p>16 A. I believe so. It's in the filings, yes.</p> <p>17 Q. I understand. Do you recall what it was?</p> <p>18 A. Switzerland, I believe, at that time, my</p> <p>19 apartment in Switzerland.</p> <p>20 Q. Well, were you residing on your olive oil</p> <p>21 farm or were --</p> <p>22 A. Which year is that?</p> <p>23 Q. October of 2007.</p> <p>24 MR. ANDERSON: Your Honor, I'm going to</p>
<p style="text-align: right;">Page 196</p> <p>1 object on the grounds I'm not sure where Mr.</p> <p>2 Skarpelos resided in 2007 is relevant to this case.</p> <p>3 THE COURT: What's the relevance of his</p> <p>4 residence when that sale allegedly took place?</p> <p>5 MR. NORK: Well, the relevance, your Honor,</p> <p>6 is that he has testified that he is a simple olive</p> <p>7 oil farmer who lived on the family estate from 2007</p> <p>8 through the present when, in fact, he has resided in</p> <p>9 Geneva, Switzerland, trading stocks.</p> <p>10 THE COURT: I don't know that he's ever</p> <p>11 identified himself as an olive oil farmer, although</p> <p>12 he indicated that he lived on the farm. No offense</p> <p>13 to Mr. Skarpelos but I don't think he's represented</p> <p>14 himself to be simple anything.</p> <p>15 MR. NORK: Okay.</p> <p>16 THE COURT: But, anyway, I'll allow you to</p> <p>17 ask him the question. I think it could be relevant</p> <p>18 and go to the witness's credibility and his ability</p> <p>19 to recall other facts if he can't recall.</p> <p>20 BY MR. NORK:</p> <p>21 Q. Do you recall where you resided in 2007?</p> <p>22 A. I live in my hometown in Astros Acathios in</p> <p>23 Greece and also I spend some time in Switzerland.</p> <p>24 So, I used the Switzerland address in Lutzenberg, a</p>	<p style="text-align: right;">Page 197</p> <p>1 small teeny apartment. Okay? My wife is living and</p> <p>2 we go there sometimes, very small apartment. I use</p> <p>3 that address for business so it looks good --</p> <p>4 Q. Okay.</p> <p>5 A. -- instead of use my home address, which is</p> <p>6 in an olive farm. I try to be respectful.</p> <p>7 Q. Understand. So, the date of the 2007 stock</p> <p>8 sale agreement is September 27th, 2007, correct?</p> <p>9 A. This one here, yes.</p> <p>10 Q. Do you recall when you reported this sale</p> <p>11 to the SEC?</p> <p>12 A. It's in the public filing. You have it</p> <p>13 there.</p> <p>14 Q. I do have it here, but my question is</p> <p>15 whether you recall.</p> <p>16 A. Usually close to the day -- I don't have it</p> <p>17 right in my head right now but you have it over</p> <p>18 there. You can see.</p> <p>19 Q. I do.</p> <p>20 THE COURT: So, it would refresh your</p> <p>21 recollection to see it. Is that correct?</p> <p>22 THE WITNESS: Thank you.</p> <p>23 MR. ANDERSON: And out of abundance of</p> <p>24 caution, your Honor, I'll reassert my same</p>

<p style="text-align: right;">Page 198</p> <p>1 objection.</p> <p>2 THE COURT: Okay. So noted. This will be</p> <p>3 65.</p> <p>4 (Exhibit 65 marked.)</p> <p>5 MR. ANDERSON: I'm sorry, your Honor. I</p> <p>6 missed the exhibit number. I believe it's 65.</p> <p>7 THE COURT: That's correct.</p> <p>8 BY MR. NORK:</p> <p>9 Q. Do you have Exhibit 65?</p> <p>10 A. Yes.</p> <p>11 Q. When did you report to the SEC that you had</p> <p>12 sold 950,000 shares of stock for 1.70 per share?</p> <p>13 A. Says here, "26/10/2007." 10 is October.</p> <p>14 Q. My question is, When did you report this to</p> <p>15 the Securities and Exchange Commission?</p> <p>16 A. It says here, "October 10, 2007."</p> <p>17 THE COURT: Mr. Skarpelos, I think he's</p> <p>18 asking you to look at your signature line at the</p> <p>19 bottom.</p> <p>20 BY MR. NORK:</p> <p>21 Q. Right, the signature line at the bottom.</p> <p>22 A. Thirty-first of October 2007.</p> <p>23 Q. October 31st.</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 199</p> <p>1 Q. And to your knowledge is it a true</p> <p>2 statement on October 31st, 2007, that you had sold</p> <p>3 950,000 shares of stock for a \$1.70 a share?</p> <p>4 A. If it says here, of course, yes, I agree.</p> <p>5 Q. Okay. It doesn't say here that you didn't</p> <p>6 receive any money, does it?</p> <p>7 A. It does -- I don't know. This is by my</p> <p>8 securities lawyer and I have to say the transaction.</p> <p>9 I have to let them know they see the transaction. I</p> <p>10 don't believe right off my head I have to explain to</p> <p>11 everybody if I received money or not. That's my</p> <p>12 personal problem.</p> <p>13 The SEC asking me and according to my</p> <p>14 securities attorney back then, if I remember right,</p> <p>15 I have to report and say the truth to the Exchange</p> <p>16 and then the transaction. The transaction's public.</p> <p>17 Q. Okay. Between this sale in 2007 and 2011,</p> <p>18 did you sell any additional stock?</p> <p>19 A. I say it in my deposition I had done a</p> <p>20 couple transactions, correct.</p> <p>21 Q. Do you recall when those dates were?</p> <p>22 A. Pardon me?</p> <p>23 Q. Do you recall when those dates were?</p> <p>24 A. Before 2010, if I remember correct.</p>
<p style="text-align: right;">Page 200</p> <p>1 THE COURT: Are you just talking about</p> <p>2 Anavex stock?</p> <p>3 MR. NORK: Yes.</p> <p>4 BY MR. NORK:</p> <p>5 Q. I mean, I'm only focused on Anavex stock.</p> <p>6 Is that what you understood my question to</p> <p>7 be?</p> <p>8 A. Yes, I understood the question.</p> <p>9 Q. If I showed you an SEC form, would it</p> <p>10 refresh your recollection as to when you sold that</p> <p>11 stock?</p> <p>12 A. I believe around -- before 2010, so maybe</p> <p>13 -- the one transaction it goes two parts, two</p> <p>14 contracts, I believe. One is 2007, another one</p> <p>15 2009, 2008, before 2010 definitely, yes.</p> <p>16 Q. My question is, If I showed you the Form 4,</p> <p>17 would it refresh your recollection?</p> <p>18 A. Yes.</p> <p>19 Q. Okay.</p> <p>20 THE CLERK: Exhibit 66.</p> <p>21 (Exhibit 66 marked.)</p> <p>22 MR. ANDERSON: Again, your Honor, same</p> <p>23 objection.</p> <p>24 THE COURT: So noted.</p>	<p style="text-align: right;">Page 201</p> <p>1 MR. ANDERSON: Thank you.</p> <p>2 THE WITNESS: Thank you.</p> <p>3 BY MR. NORK:</p> <p>4 Q. Okay. I've handed you Exhibit 66.</p> <p>5 Can you please take a moment to review it.</p> <p>6 (Witness reviewing document.)</p> <p>7 THE WITNESS: Yes, I have it.</p> <p>8 BY MR. NORK:</p> <p>9 Q. Okay. Have you reviewed it? Does it</p> <p>10 refresh your recollection as to when the dates were</p> <p>11 that you sold additional stocks in 2009?</p> <p>12 A. 2009, yes.</p> <p>13 Q. What were the dates?</p> <p>14 A. 29/6/09.</p> <p>15 MR. ANDERSON: I'll object, your Honor. It</p> <p>16 appears the witness is reading from the document.</p> <p>17 MR. NORK: That's the whole point, though.</p> <p>18 THE COURT: Well, actually, it's not.</p> <p>19 MR. ANDERSON: Thank you.</p> <p>20 THE COURT: You don't refresh somebody's</p> <p>21 recollection by having them read from a document.</p> <p>22 They look at the document and technically the</p> <p>23 correct way you're supposed to do it is give them</p> <p>24 the document, have them refresh their recollection.</p>

<p style="text-align: right;">Page 202</p> <p>1 When they've refreshed it, turn the document over so 2 they're specifically not reading from it. 3 Because it's supposed to be something that 4 jars or brings something back to one's recollection, 5 as opposed to a past recollection recorded, which is 6 an exception to the hearsay rule, which is an 7 entirely different thing. So, he can't just be 8 reading from this document by looking down at it, 9 which Mr. Anderson is correct is what Mr. Skarpelos 10 did. 11 So, you can ask him that in a series of 12 smaller questions if you'd like to about when he 13 sold -- do you recall selling stock at specific 14 times. If he doesn't recall, he can refresh his 15 recollection. 16 MR. NORK: Thank you, your Honor. 17 BY MR. NORK: 18 Q. In 2009 do you recall how many separate 19 times you sold stock in Anavex? 20 A. This is the first time -- I remember one 21 person, it was a transaction, yes. It was one sale. 22 It's been a long time. It's been a long time and 23 it's very difficult to remember. Now it's -- this 24 thing now I remember. I always have in my mind I</p>	<p style="text-align: right;">Page 203</p> <p>1 done a couple transactions before 2010. 2 Q. Yes. 3 A. Couple of big sales, big chunks, nothing 4 more. This is done appropriate. I file my filings 5 with Securities and Exchange Commission. It's gone 6 through the transfer agent, so I never have to 7 remember. It was very early. I have lots of things 8 in my mind back then to build a company. 9 Q. Fair enough. But in reviewing Exhibit 66, 10 does it refresh your recollection as to how many 11 sales you did in 2009? 12 A. It says here three. 13 Q. Okay. At the conclusion of those sales, do 14 you recall how much Anavex stock you were left with? 15 A. No, not right now. Maybe I have it here. 16 I have to -- 17 MR. ANDERSON: Again, your Honor -- 18 THE COURT: You don't need to object, Mr. 19 Anderson. 20 Don't look at that. Go ahead. Next 21 question. 22 BY MR. NORK: 23 Q. My question is, You don't recall how many 24 shares of stock you were left with, correct?</p>
<p style="text-align: right;">Page 204</p> <p>1 A. Correct. 2 Q. Take a moment to look at Exhibit 66, the 3 one that you just had. Let me know if it refreshes 4 your recollection as to how much stock you had. 5 A. It says 6.7 million and some change. 6 Q. All right. Turn, please, to Exhibit 16. 7 A. Yes. 8 Q. Now, whether we're talking about 9 Certificate 975 or 660 and 753, either way, what is 10 the total number of shares of stock listed on 11 Exhibit 16? 12 A. So I can understand, you're asking to put 13 the things -- the numbers together? 14 Q. No, no, no. Just tell me. You see in the 15 first column of Exhibit 16 and it says "Certificate 16 660 and Certificate 753" -- 17 A. Yes. 18 Q. -- and then it shows two columns over the 19 number of shares represented by each certificate? 20 A. Here's the number of 92,500 and 6.6 21 million, yes. 22 Q. And then when you go all the way down to 23 the bottom, it shows the total, correct? 24 A. Correct.</p>	<p style="text-align: right;">Page 205</p> <p>1 Q. And that total as listed on Exhibit 16 is 2 6,725,832, correct? 3 A. Yes, correct. 4 Q. And that's how much stock you had left -- 5 you had remaining after doing your stock sales in 6 2009, correct? 7 A. If it says here, yes, correct. 8 Q. Okay. So, all of your stock in Anavex at 9 the time you submitted your account with W.A.M., was 10 submitted to W.A.M., correct? You didn't have any 11 other stock. 12 A. Hiding somewhere else. I had two 13 certificates, if I remember correct. 14 THE COURT: He didn't say "hiding." He 15 said you didn't have any other stock. 16 The entirety of your stock in Anavex is 17 represented by Stock Certificate 660 and 753 and 18 there are no other stock certificates that you have. 19 Is that your testimony? When you were dealing with 20 -- I know you don't want to say you opened a 21 contract. I appreciate that. When you were dealing 22 with Weiser, as we discussed during this trial, the 23 totality of your stock as represented by those two 24 stock certificates. Is that correct?</p>

<p style="text-align: right;">Page 206</p> <p>1 THE WITNESS: Correct, yes.</p> <p>2 THE COURT: There are no other certificates</p> <p>3 floating around.</p> <p>4 THE WITNESS: Probably not, no. If I</p> <p>5 remember, no.</p> <p>6 BY MR. NORK:</p> <p>7 Q. Okay. So, all of your --</p> <p>8 A. To be clear -- can I be clear? I'm not</p> <p>9 100 percent sure but 99.9 I have two certificates.</p> <p>10 That's all I have probably, yes.</p> <p>11 Q. Okay. All your stock in Anavex was</p> <p>12 represented by those two certificates and you</p> <p>13 deposited them, or as you testified, left them with</p> <p>14 Howard Daniels.</p> <p>15 A. Correct.</p> <p>16 Q. By the way, the stock you sold in 2009,</p> <p>17 where did you put the money you received for the</p> <p>18 stock?</p> <p>19 A. I never receive any money. Again, it was</p> <p>20 the same -- it was two parcels transactions in the</p> <p>21 earlier days of the incorporation of the company.</p> <p>22 Both of those transactions was advised and</p> <p>23 Mr. Christos Livadas, my good friend, he was the</p> <p>24 middleman. So, whenever received my money, I never</p>	<p style="text-align: right;">Page 207</p> <p>1 received my money. Yes.</p> <p>2 Q. So, in October 2007 you didn't receive \$1.6</p> <p>3 million from that sale?</p> <p>4 A. Nothing, zero.</p> <p>5 Q. In 2009 on three separate occasions you</p> <p>6 sold stock but never received money, correct?</p> <p>7 A. Those both -- if I remember correct, I have</p> <p>8 the second contract in my briefcase in Athens,</p> <p>9 Greece, in my house. Because you only providing</p> <p>10 these documents one contract. It's another one with</p> <p>11 Mr. Christos Livadas, people or company or affiliate</p> <p>12 people, or whatever, which represents this sales, if</p> <p>13 I remember correctly. My memory's not very good.</p> <p>14 Q. Okay. You did three sales in 2009 and your</p> <p>15 testimony is that you didn't receive a penny for any</p> <p>16 of them.</p> <p>17 A. Nothing.</p> <p>18 Q. So, now we're on to four sales of your</p> <p>19 stock --</p> <p>20 A. Yes.</p> <p>21 Q. -- where you didn't receive a penny.</p> <p>22 A. Correct.</p> <p>23 Q. And yet you kept doing this.</p> <p>24 Is that correct?</p>
<p style="text-align: right;">Page 208</p> <p>1 A. No, no. I'm not doing mistakes by habit.</p> <p>2 Q. Were you still residing in Geneva at the</p> <p>3 time of the 2009 sale?</p> <p>4 A. I reside in Astros, Greece, my hometown,</p> <p>5 and I go there occasionally. I used the address</p> <p>6 mostly for business.</p> <p>7 THE COURT: Were all four stock sales that</p> <p>8 you were just discussing with Mr. Nork, the one in</p> <p>9 September of 2007 and then the three in 2009, all of</p> <p>10 which you've testified you received no money for,</p> <p>11 were they all done with Mr. Livadas?</p> <p>12 THE WITNESS: Correct.</p> <p>13 THE COURT: Next question.</p> <p>14 BY MR. NORK:</p> <p>15 Q. For the sales -- three sales in 2009, did</p> <p>16 you direct Mr. Livadas to deposit the money into a</p> <p>17 bank account?</p> <p>18 A. I spoke to him, yes, personally.</p> <p>19 Q. What bank account did you tell him to put</p> <p>20 the money in?</p> <p>21 A. We was in discussion. I ran to the same</p> <p>22 problem back in 2007. It's the same problem I have</p> <p>23 with Mr. Christos Livadas in that period of time.</p> <p>24 Q. You never told him what bank to put the</p>	<p style="text-align: right;">Page 209</p> <p>1 money into. Is that your testimony?</p> <p>2 A. No, no, no. Mr. Christos Livada knows very</p> <p>3 well, if we come close to bringing the money, we can</p> <p>4 find a bank account and it goes to the bank. I walk</p> <p>5 there with my ID, I can receive money. But I never</p> <p>6 receive any money to open an account.</p> <p>7 THE COURT: The question -- I'm sorry, Mr.</p> <p>8 Nork. Just to short-circuit this -- because I don't</p> <p>9 want you to be argumentative -- the question was</p> <p>10 different, Mr. Skarpelos.</p> <p>11 The question was, Did you tell Mr. Livadas</p> <p>12 what bank to put the money in? Did you ever say,</p> <p>13 Christos, when we get the money for any of these</p> <p>14 four sales, here is the bank I want you to deposit</p> <p>15 the money in? Did you ever have that conversation?</p> <p>16 THE WITNESS: Probably not.</p> <p>17 THE COURT: Okay. Next question. I think</p> <p>18 that's what your question was.</p> <p>19 BY MR. NORK:</p> <p>20 Q. It was, yes. Were you expecting to receive</p> <p>21 a bag of cash?</p> <p>22 A. From Mr. Christos Livada, no.</p> <p>23 Q. As a result of this sale.</p> <p>24 A. He's international businessman. He knows</p>

<p style="text-align: right;">Page 210</p> <p>1 very well how to do the transaction in the bank.</p> <p>2 Q. Well, you told the Securities and Exchange</p> <p>3 Commission that you did three sales in 2009,</p> <p>4 correct?</p> <p>5 A. Whatever I said to SEC, it's under oath.</p> <p>6 Q. Right. I agree. And you said it's</p> <p>7 approximately \$1.9 million of stock that was sold in</p> <p>8 2009. Does that sound about right?</p> <p>9 A. Yes.</p> <p>10 Q. And you never told Mr. Livadas where to put</p> <p>11 that money?</p> <p>12 A. It's --</p> <p>13 Q. Is that your testimony?</p> <p>14 A. My testimony, yes. Mr. Livadas is very</p> <p>15 difficult person. Yes. Yes.</p> <p>16 Q. The question is simple --</p> <p>17 A. Yes.</p> <p>18 Q. Yes, you never told him where to put the</p> <p>19 money?</p> <p>20 A. Yes, I never told him.</p> <p>21 Q. And then after you received your</p> <p>22 replacement Stock Certificate 975, did you then</p> <p>23 transact any of that stock at any time?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 211</p> <p>1 Q. When?</p> <p>2 A. I done two gifts -- not sales. Gifts. I</p> <p>3 gift to two individuals which they are confidential.</p> <p>4 They were strategic people for the company that</p> <p>5 point, both of them. So, under confidentiality</p> <p>6 agreement I gift two positions out of my entire</p> <p>7 block in order to make the company to succeed.</p> <p>8 Q. Do you recall how much stock you gave away?</p> <p>9 A. It was in that time around something 1.5</p> <p>10 million, under 2 million shares.</p> <p>11 Q. I'm sorry?</p> <p>12 A. Over 1.5 million shares, something like</p> <p>13 that.</p> <p>14 Q. Over 1.5 million shares --</p> <p>15 A. There was two people. I don't remember</p> <p>16 exactly the details. 1 million plus another one.</p> <p>17 Q. Did you tell the SEC that you gave the</p> <p>18 stock away?</p> <p>19 A. I always do the same transactions.</p> <p>20 Otherwise, the transaction won't go through without</p> <p>21 the SEC, no.</p> <p>22 Q. Did you tell the SEC who you gave the stock</p> <p>23 to?</p> <p>24 A. Of course the SEC knows, yes, because there</p>
<p style="text-align: right;">Page 212</p> <p>1 are names. The transfer agent knows the names.</p> <p>2 Q. And that's a matter of public record,</p> <p>3 correct?</p> <p>4 A. No.</p> <p>5 Q. It is not?</p> <p>6 A. It's confidential.</p> <p>7 Q. It's confidential.</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Do you recall when it was that you</p> <p>10 gave the stock away?</p> <p>11 A. It was in the fall of 2013 after my</p> <p>12 hospitalization and my critical time with my health</p> <p>13 issues.</p> <p>14 THE COURT: The fall of 2013.</p> <p>15 THE WITNESS: '13.</p> <p>16 BY MR. NORK:</p> <p>17 Q. Do you recall what month?</p> <p>18 A. Pardon me?</p> <p>19 Q. Do you recall what month you gave the stock</p> <p>20 away?</p> <p>21 A. In the fall. September, October, November,</p> <p>22 somewhere in the fall. Not in the summer, in the</p> <p>23 fall.</p> <p>24 Q. Okay.</p>	<p style="text-align: right;">Page 213</p> <p>1 A. October, probably. I don't remember</p> <p>2 exactly the dates.</p> <p>3 Q. If I showed you --</p> <p>4 A. It's public, yes. You have it there, yes.</p> <p>5 Q. And it would refresh your recollection?</p> <p>6 A. If I like me to -- yes.</p> <p>7 THE CLERK: Exhibit 67 marked.</p> <p>8 (Exhibit 67 marked.)</p> <p>9 BY MR. NORK:</p> <p>10 Q. Please take a moment to review Exhibit 67.</p> <p>11 (Witness reviewing document.)</p> <p>12 THE WITNESS: Yes.</p> <p>13 BY MR. NORK:</p> <p>14 Q. Does that refresh your recollection as to</p> <p>15 when you gave away your stock?</p> <p>16 A. This is two gifts, two different strategic</p> <p>17 people. This one is in the spring and another one</p> <p>18 is in the fall. I have in my mind the fall I</p> <p>19 remember in 2013. It's another one you have there</p> <p>20 in your hands.</p> <p>21 Q. No. This is the only one I have.</p> <p>22 A. I done two gifts. I remember the October.</p> <p>23 Q. Okay. I don't want to confuse you.</p> <p>24 A. This one I was -- that's why I like to see</p>

<p style="text-align: right;">Page 214</p> <p>1 it. This is in the spring. This is -- no.</p> <p>2 THE COURT: You might be looking at the</p> <p>3 wrong thing.</p> <p>4 THE WITNESS: This is it, October 29th,</p> <p>5 yes, correct.</p> <p>6 BY MR. NORK:</p> <p>7 Q. Yes. Right. I don't want to confuse you.</p> <p>8 Sometimes --</p> <p>9 A. Yes, it's October.</p> <p>10 Q. In your --</p> <p>11 A. I'm sorry.</p> <p>12 Q. Your dates are listed day, then month and</p> <p>13 U.S. it's month and day. Sometimes that's</p> <p>14 confusing.</p> <p>15 A. My apologies.</p> <p>16 Q. So, the two gifts were in October, correct?</p> <p>17 A. There was two different people. It happens</p> <p>18 like I say 1.5 or some million shares.</p> <p>19 Q. Yes.</p> <p>20 A. There was two people, very strategic people</p> <p>21 and thanks to them we're in NASDAQ today. I done</p> <p>22 two transactions, two parcels with those two people.</p> <p>23 Maybe they happened in two or three transactions. I</p> <p>24 don't remember exactly the dates and everything.</p>	<p style="text-align: right;">Page 215</p> <p>1 But they all happen according to the SEC</p> <p>2 regulations and to the transfer agent, the transfer</p> <p>3 agent's six, seven documents been prepared by the</p> <p>4 securities lawyers and accepted by the SEC. I never</p> <p>5 have any complaint back from the SEC about my</p> <p>6 transactions. My transactions was legitimate.</p> <p>7 Q. Okay. And do you recall what addresses</p> <p>8 that you're telling the SEC when you reported these</p> <p>9 gifts?</p> <p>10 A. In this one here it's my Athens address --</p> <p>11 Q. Okay.</p> <p>12 A. -- my wife's house, yes.</p> <p>13 Q. Can you turn to Exhibit 40. These are some</p> <p>14 emails. Let me make sure they're in. They're</p> <p>15 admitted.</p> <p>16 These emails are also in October 2013,</p> <p>17 correct?</p> <p>18 A. Correct. Yes.</p> <p>19 Q. These are emails between you and Mr.</p> <p>20 Livadas, correct?</p> <p>21 A. Correct.</p> <p>22 Q. Anywhere in these emails did you tell him</p> <p>23 that just days before you had given away some of</p> <p>24 your stock?</p>
<p style="text-align: right;">Page 216</p> <p>1 A. Mr. Livadas, no.</p> <p>2 Q. But isn't it true, sir, that having given</p> <p>3 away, as you testified, 1.5 million shares of stock,</p> <p>4 that brought your total stock balance down below 6.6</p> <p>5 million shares?</p> <p>6 A. Yes, correct --</p> <p>7 Q. Okay.</p> <p>8 A. -- probably.</p> <p>9 Q. So, as a result of giving away these shares</p> <p>10 of stock, you can't cover the amount of shares that</p> <p>11 are listed in Certificate 753. Isn't that correct?</p> <p>12 A. If you say so, yes, I believe you.</p> <p>13 Q. Well, 6.6 is more than the amount of shares</p> <p>14 you had left after you gave away 1.5 million shares,</p> <p>15 correct?</p> <p>16 A. So, excuse me for a moment. You try to</p> <p>17 tell me I've done something wrong with my filings</p> <p>18 and my certificate?</p> <p>19 Q. I'm just asking about a math question.</p> <p>20 Is 6.6 more than 5.5?</p> <p>21 A. All the numbers had been settled between</p> <p>22 transfer agent, correct, which they handled my</p> <p>23 positions and my filings and my securities lawyer,</p> <p>24 the accountants. I don't understand the question.</p>	<p style="text-align: right;">Page 217</p> <p>1 Q. You don't understand the question.</p> <p>2 A. No.</p> <p>3 Q. Okay. Let me help you. Certificate 753</p> <p>4 when it existed had 6.6 million shares of stock,</p> <p>5 correct?</p> <p>6 A. Yes.</p> <p>7 Q. All right. And as a result of you giving</p> <p>8 away shares of stock in October 2013, you had less</p> <p>9 than 6.6 million shares of stock. Isn't that true?</p> <p>10 A. The Certificate 7-point -- whatever you</p> <p>11 say-- it was claimed lost in the spring of that</p> <p>12 year.</p> <p>13 Q. I'm just asking about numbers.</p> <p>14 A. I never care for the numbers in that point.</p> <p>15 Because a certificate was lost, so probably I was</p> <p>16 going with the new numbers.</p> <p>17 Q. So, 5-1/2 million is less than 6,600,000?</p> <p>18 A. How many less?</p> <p>19 Q. 5-1/2 million, is it less than 6,600,000?</p> <p>20 A. Yes, it's less. Yes.</p> <p>21 Q. Thank you.</p> <p>22 MR. NORK: Nothing further.</p> <p>23 THE WITNESS: But I --</p> <p>24 THE COURT: Hold on a second,</p>

<p style="text-align: right;">Page 218</p> <p>1 Mr. Skarpelos. There's no question in place.</p> <p>2 So, redirect based on the</p> <p>3 cross-examination, Mr. Anderson?</p> <p>4 MR. ANDERSON: Yes, your Honor. Thank you.</p> <p>5 REDIRECT EXAMINATION</p> <p>6 BY MR. ANDERSON:</p> <p>7 Q. Mr. Skarpelos, will you turn back to</p> <p>8 Exhibit 40, please. Mr. Nork just asked you some</p> <p>9 questions and whether this email reflects anything</p> <p>10 about the fact that you had gifted some stock away</p> <p>11 in that month. Do you recall that?</p> <p>12 A. Yes.</p> <p>13 Q. Do you recall Mr. Nork asking you where in</p> <p>14 this email does it discuss your gifts to these other</p> <p>15 parties?</p> <p>16 A. Nowhere.</p> <p>17 Q. Would you look down at the bottom of the</p> <p>18 email.</p> <p>19 A. Yes.</p> <p>20 Q. Okay. As you read up, is it fair to say</p> <p>21 this email appears to be Christos asking where</p> <p>22 Lambros is?</p> <p>23 A. That's what it says here, yes.</p> <p>24 Q. Okay. And it also doesn't say anything</p>	<p style="text-align: right;">Page 219</p> <p>1 about stock, correct?</p> <p>2 A. Correct.</p> <p>3 Q. Mr. Nork asked you about the 2007</p> <p>4 transactions and the 2009 transactions, whether you</p> <p>5 directed Mr. Livadas to -- did you give him any bank</p> <p>6 account information?</p> <p>7 Did you ever get any money from those</p> <p>8 transactions?</p> <p>9 A. No.</p> <p>10 Q. Okay. And as I understood your testimony,</p> <p>11 if it appeared you were going to get some money at</p> <p>12 that point, you would have opened an account to</p> <p>13 receive it?</p> <p>14 A. Correct.</p> <p>15 Q. Okay. One thing you said that I didn't</p> <p>16 understand when you said it and Mr. Nork was</p> <p>17 pointing out that you didn't get paid in 2007 for</p> <p>18 that transaction, correct?</p> <p>19 A. Correct.</p> <p>20 Q. Okay. And then you did three transactions</p> <p>21 in 2009 for which you didn't get paid.</p> <p>22 A. Correct.</p> <p>23 Q. Okay. And I think you said something about</p> <p>24 mistakes or habit, and I didn't understand it. Can</p>
<p style="text-align: right;">Page 220</p> <p>1 you explain what it is you meant by that?</p> <p>2 A. If I remember, Mr. Nork he asked me why I</p> <p>3 keep doing that. And I say I done a few mistakes</p> <p>4 after Mr. Livadas -- Christos Livadas convinced me</p> <p>5 and slightly pushed me to do these transactions for</p> <p>6 the good for the company.</p> <p>7 In my mind at that point and still it is</p> <p>8 today, it's the benefit of the company, the building</p> <p>9 of the company. It's not that much personally --</p> <p>10 how can I say -- transactions to make any money.</p> <p>11 So, if I was promising from somebody, a</p> <p>12 friend, which I trusted him very much, we're going</p> <p>13 to do something to raise some money or to do some</p> <p>14 private transactions to strategic people, I trust</p> <p>15 him. I used to back then. Not anymore, of course,</p> <p>16 because I have a --</p> <p>17 Q. Can you --</p> <p>18 A. Can I finish?</p> <p>19 Q. I'm sorry.</p> <p>20 A. Thank you. And because I have a very, very</p> <p>21 big position, I try not to be greedy also. Because</p> <p>22 the company -- the biotech company if they succeed,</p> <p>23 that's the most important thing, to succeed with</p> <p>24 their project. That's my philosophy.</p>	<p style="text-align: right;">Page 221</p> <p>1 Even if I have smaller amount of sales,</p> <p>2 still I'm gonna make more than enough money, so</p> <p>3 that's why I put all my effort to -- in progress to</p> <p>4 develop the new pharmaceuticals for Alzheimer's,</p> <p>5 which they are doing fine right now. It's not</p> <p>6 because I like to lose money. But happens, I turn</p> <p>7 the page. Nothing I can do.</p> <p>8 Q. And is that why you weren't intending to</p> <p>9 finalize a deal in 2013 until you knew the buyer?</p> <p>10 A. Exactly. That's why I stay preliminarily</p> <p>11 with Mr. Christos Livada. Like I say, he was a good</p> <p>12 friend of mine. I love him very much. Even before</p> <p>13 we come into this courtroom, I bought him a drink</p> <p>14 one night the night we arrived, but no more business</p> <p>15 together.</p> <p>16 Q. Mr. Nork also asked you some questions</p> <p>17 about some deposition testimony, questioning whether</p> <p>18 you answered honestly about whether you were willing</p> <p>19 to sell one half of your position or whether there</p> <p>20 was something more. Would you turn back to page</p> <p>21 186, please.</p> <p>22 A. 196 of my deposition?</p> <p>23 Q. Yes, please. And he directed you to the</p> <p>24 discussion at lines 13 through 19, I believe. And</p>

<p style="text-align: right;">Page 222</p> <p>1 the question he asked you was, "Were you willing to 2 sell 3 million shares of your stock or 6 million? 3 And you answered "Half my position. I believe my 4 position was 6.6, I believe," correct? 5 A. Correct. 6 Q. Half of which was 3.3. So, it appeared to 7 me you were discussing generality of numbers. 8 A. I state that earlier to Mr. Nork, correct. 9 Totally general, totally preliminary. If things are 10 going the right way like Mr. Christos Livada 11 promised me, this time I would be having my 12 securities lawyer from Vancouver Mr. Pinsky, which I 13 know him for 30 years, to help me and assist me with 14 this transaction to Mr. Livadas in order for him to 15 make his commission, was after the commission. 16 Q. You were also asked about your testimony at 17 page 142 at deposition. It's line 23. He 18 specifically asked you the questions at line 20. 19 Mr. Nork asked you, "So, my question was, 20 What would be the purpose of sending these originals 21 to Bouts if not to finalize the deal, if you know? 22 "Answer: I don't know." Is that right? 23 A. Correct. 24 Q. I asked you yesterday if you ever did send</p>	<p style="text-align: right;">Page 223</p> <p>1 the originals to Mr. Boutsalis. What did you say? 2 A. I said no, I have in my briefcase with me 3 here. 4 Q. Okay. And you've always had them. 5 A. Always. Because the transaction was never 6 finalized. 7 Q. You were also asked why you notarized the 8 document. I'd like you to turn to Exhibit 28, 9 please. 10 A. Yes, I have it. 11 Q. In Exhibit 28 this is an email from 12 Christos to Lambros, correct? 13 A. Correct. 14 Q. And is Mr. Livadas the one that's 15 requesting that they be notarized? 16 A. Yes, correct. 17 Q. Okay. Did he tell you why he wanted them 18 notarized? 19 A. I believe strongly it is another email in 20 this exhibits which Mr. Christos Livadas, if I 21 remember correctly, he's asked for blanks for 22 samples. 23 Q. Okay. 24 A. Notarize the samples, he said.</p>
<p style="text-align: right;">Page 224</p> <p>1 Q. Okay. Did you ever speak with him verbally 2 or do you know if Lambros spoke with him verbally 3 about the need to have them notarized? 4 A. As a samples for the Chinese people, for 5 the whatever we call them, to see my signature. 6 Because my signature, there was no medallion. In 7 Greece we don't have medallion. 8 Q. My only question was, Did you have verbal 9 conversations directly with Mr. Livadas or do you 10 know if Mr. Lambros had direct conversations outside 11 of emails with Mr. Livadas about the notary issue? 12 A. Yes. Probably yes. I don't remember. 13 Q. Okay. If you don't remember, that's fine. 14 A. Yeah, I don't remember. 15 THE COURT: So, the court's going to 16 disregard the last response, it's, "Yes probably. I 17 don't remember." Those are, I think, the three 18 possible answers to that question, "Yes, I don't 19 remember," and "no," all in one sentence. 20 THE WITNESS: I'm sorry. 21 THE COURT: That's okay. The form of the 22 question, Mr. Anderson, called for possibly a 23 hearsay response anyway because you were asking him 24 whether or not Lambros had conversations with Mr.</p>	<p style="text-align: right;">Page 225</p> <p>1 Livadas that Mr. Skarpelos is aware of, so we'll 2 just strike that. 3 MR. ANDERSON: I'll move on to something 4 else, your Honor. 5 THE COURT: You could ask him the question 6 in a different way but I'm just going to strike that 7 answer. 8 BY MR. ANDERSON: 9 Q. You were asked questions by Mr. Nork and I 10 think he asked you the question, You canceled the 11 stock certificate because you didn't trust Mr. 12 Livadas. Do you remember that? 13 A. One of those reasons, yes. 14 Q. And you testified yesterday there were 15 multiple reasons, correct? 16 A. Correct. 17 Q. And he asked you about the volume or number 18 of conversations you had with Mr. Livadas and it 19 sounds like there were quite a few of them. 20 A. Correct. 21 Q. What was Mr. Livadas' general response to 22 you when you would inquire about what's happening at 23 W.A.M.? 24 A. "Don't worry, Tom. Don't worry." That's</p>

<p style="text-align: right;">Page 226</p> <p>1 the word he used. "Don't worry, everything's fine." 2 That makes me feel a little bit comfortable. Used 3 to. But from one point I got to be scared. Too 4 much "Don't worry" isn't too good. 5 Q. When someone tells you "Don't worry" enough 6 times, you start to worry. 7 A. Yes. 8 Q. Mr. Nork also asked you about, you know, 9 you canceled your stock certificate because you 10 didn't trust Mr. Livadas and three months later 11 you're entering into conversations with him about 12 having him arrange for a sale of shares again. 13 Do you recall that? 14 A. Correct, yes. 15 Q. Okay. At the time that these conversations 16 started up again in July -- June or July of 2013, 17 what was the financial condition of the company? 18 A. I don't remember. Probably it's -- Mr. 19 Nork showed me earlier. It was definitely very bad. 20 Q. He asked if it was in dire straits and you 21 said yes. 22 A. Yes. 23 Q. And would it be fair to say you were 24 anxious to find someone that might be able to be a</p>	<p style="text-align: right;">Page 227</p> <p>1 strategic investor and help the company? 2 A. Of course. 3 Q. He never found that person, correct? 4 A. He tried, according to the discussions we 5 have in the time. He was going for vacation in 6 Greece. It was the summer and this was after my 7 operation so -- 8 MR. NORK: Objection, nonresponsive. 9 THE COURT: Sustained. You can ask him the 10 question again. 11 BY MR. ANDERSON: 12 Q. I'll ask him the yes-or-no question. 13 That's why it was important for you to find 14 a strategic investor at that point, correct? 15 A. Correct. 16 Q. Mr. Nork also asked you about the volume of 17 emails that you exchanged with Mr. Livadas, correct? 18 A. Correct. 19 Q. Okay. During -- between 2011 and 2013, 20 what was the domain of your email account? 21 A. I used to have always Anavex, the corporate 22 account, which that was the corporate account. And 23 I used to use Bizex and Yahoo, which I have still. 24 It's a business account.</p>
<p style="text-align: right;">Page 228</p> <p>1 Q. It sounds like Mr. Livadas' preferred email 2 account was on the Bizex system. 3 A. He introduced me to his private server, 4 which he explained was sitting in a secured place in 5 Bahamas. 6 MR. NORK: Objection, nonresponsive. 7 BY MR. ANDERSON: 8 Q. My only question was, That was Mr. Livadas' 9 preferred way to communicate was email through 10 Bizex. 11 A. Correct. 12 Q. Okay. And is that -- at some point in time 13 did you no longer have access to your Bizex account? 14 A. Yes. 15 Q. When did that happen? 16 A. After Mr. Livadas got very upset with me. 17 Sometimes the end of the summer or fall of 2013. 18 Q. 2013. 19 A. Yes. 20 Q. And how did you know that your Bizex 21 account had been shut down? 22 A. I tried to log. It was dead. 23 Q. Okay. And after your Bizex account was 24 closed out, were you able to access historical</p>	<p style="text-align: right;">Page 229</p> <p>1 emails in there? 2 A. Never. 3 Q. So, the only person would be someone on the 4 Bizex end, correct? 5 A. The owner. 6 Q. The owner. You didn't have the ability to 7 get those emails? 8 A. No. 9 Q. Did you try? 10 A. It's very common. If they kick me out, 11 they kick me out from the server. The server was a 12 private server because I learned a little bit about 13 that stuff. 14 Q. If you look at Exhibit 40, please, this is 15 an email exchange between you and Mr. Livadas in 16 October of 2013, correct? 17 A. Correct. 18 Q. And is he e-mailing you at your Bizex 19 account? 20 A. Not anymore. 21 Q. Where is he e-mailing you? 22 A. Yahoo account. 23 Q. Mr. Nork asked you some questions about 24 your understanding of Christos Livadas' role with</p>

<p style="text-align: right;">Page 230</p> <p>1 W.A.M. and I think you testified at your deposition 2 that you thought he was the owner in 2011 and 3 running the show. Do you recall that? 4 A. Yes. 5 Q. What was that assumption based on? 6 A. That's what I know. That's what everybody 7 knew. Christos is the owner, the undisputed owner 8 of the Weiser -- Weiser Asset Management. It was 9 very difficult for me to pronounce so that's why I 10 used to call him "Weiser," and he was the owner. 11 Q. But you hadn't seen any documentation that 12 said Christos Livadas, owner of W.A.M., correct? 13 A. No. 14 Q. I mean, he testified on his direct 15 testimony that he didn't acquire ownership until 16 December of 2014 and you're not aware of any 17 documents that would dispute that, correct? 18 A. I don't know. I only knew what I saw in 19 The Bahamas. 20 Q. Turn to Exhibit 9, please. Mr. Nork was 21 asking you questions about this document and your 22 knowledge of the circumstances of why Lambros' 23 passport may appear in Weiser's records or W.A.M.'s 24 records. I just want to be clear. Do you have any</p>	<p style="text-align: right;">Page 231</p> <p>1 idea why they would have Lambros' passport? 2 A. I don't have an idea why they have it. I 3 don't know. I don't know. 4 Q. Okay. He wasn't -- you didn't intend that 5 he be authorized to directly access your W.A.M. 6 account. 7 A. Of course not. Because if he was going to 8 have access, he's gonna be in the application for me 9 even in the preliminary. So, I don't understand how 10 he can involved or somebody else. I never even put 11 my wife at that point because it was preliminary in 12 open form, what they told me. 13 Definitely, if I -- the process going well 14 and the broker-dealer firm for Christos is done 15 okay, I'm gonna open the account, complete the 16 transaction with the account, and put my wife or my 17 daughter co-sign it. Why I should put Lambros? I 18 never have a reason to put Lambros. 19 Q. Would you look at Exhibit 59, please. I'm 20 looking at, in particular, the last page. And I 21 apologize. Not the exact last page but the second 22 to last page which has -- 23 A. Yes. 24 Q. -- there's an email from Lambros to -- it</p>
<p style="text-align: right;">Page 232</p> <p>1 says "Christos," meaning Mr. Livadas, "Subject 2 quadruple bypass." Do you see that? 3 A. Yes. 4 Q. And then just above it there's a line from 5 Mr. Livadas to Rainbow saying, "Hi R, can you 6 transfer \$20,000 as a shareholder withdrawal to the 7 details below as soon as possible. Tom had heart 8 attack and is waiting for payments to stay alive." 9 A. Yes, that's what they said. 10 Q. Did you have a heart attack on or before 11 April 26th, 2013? 12 A. I never had a heart attack. 13 Q. So, that's not a true statement. 14 A. Of course not. 15 Q. Okay. On April 26th, 2013, you hadn't even 16 gone in for your surgery yet, correct? 17 A. No. My surgery was planned. I started to 18 have issues with my heart, but it was planned for 19 Easter of 2013. Then the area of May, which was the 20 best scenario for me. 21 Q. Okay. And you indicated on 22 cross-examination that Greece's medical system paid 23 for a lot of the surgery and your father paid for 24 some other parts.</p>	<p style="text-align: right;">Page 233</p> <p>1 A. As Greek farmer I have free insurance, free 2 coverage for everything. 3 Q. Okay. 4 A. The only thing they don't cover is my 5 implants. Everything else is covered. The only 6 thing I have to pay for the surgery was 7 miscellaneous things like gloves, like a donation 8 thing. It all depends which hospital. 9 Q. Is that what your father paid for? 10 A. Yes. 11 Q. And nowhere on Exhibit 59 does it say that 12 Lambros is asking for \$20,000 specifically, correct? 13 A. I can't explain the emails because it's not 14 my emails. It's not my writing. 15 Q. Fair enough. 16 A. This is a copy from somebody's server. I 17 don't trust these papers. I don't understand why 18 they're here as an exhibit in the first place. 19 THE COURT: Because I said they were, is 20 the answer to the question. Mr. Nork also asked you 21 about Exhibit 8. I have to take a step back. I 22 apologize, Mr. Skarpelos, if that sounded like I was 23 being short with you, because I really wasn't. I 24 was explaining why they're there.</p>

<p style="text-align: right;">Page 234</p> <p>1 They've been offered, I make an evidentiary</p> <p>2 ruling, they're in. So, I understand you may not</p> <p>3 understand but I just want to let you know, because</p> <p>4 I have to rule and that's why they're there.</p> <p>5 THE WITNESS: Thank you very much.</p> <p>6 THE COURT: It sounded like I was being</p> <p>7 more curt with you than I intended to be.</p> <p>8 THE WITNESS: Thank you.</p> <p>9 BY MR. ANDERSON:</p> <p>10 Q. If you turn to Exhibit 8 that has Weiser</p> <p>11 366, I believe that's the second to last page. Mr.</p> <p>12 Nork was asking you questions and I believe</p> <p>13 suggesting that there might have been some</p> <p>14 misrepresentation to W.A.M. about being a customer</p> <p>15 in good standing with Alpha Bank.</p> <p>16 Do you remember that?</p> <p>17 A. I understand Mr. Nork asked me -- he asked</p> <p>18 me what is that.</p> <p>19 Q. You recall him asking you questions that,</p> <p>20 perhaps, you misrepresented your good standing to</p> <p>21 Weiser Asset Management when you opened your</p> <p>22 account. You remember those questions?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. Do you believe that Weiser Asset</p>	<p style="text-align: right;">Page 235</p> <p>1 Management was really interested in your Greece bank</p> <p>2 accounts or do you believe it was something else</p> <p>3 that they were interested in getting from you?</p> <p>4 A. Looks now, yes, something else. There was</p> <p>5 no interest for this.</p> <p>6 Q. They were more interested in your stock</p> <p>7 than your banks in Greece, correct?</p> <p>8 A. Exactly.</p> <p>9 Q. Did W.A.M. ever complain to you about the</p> <p>10 accuracy in this letter or the representations?</p> <p>11 A. They never even care for that.</p> <p>12 Q. There was discussion between you and Mr.</p> <p>13 Nork. He asked if you deposited certificates at</p> <p>14 W.A.M. and you said you left them at W.A.M.</p> <p>15 To your knowledge can you deposit something</p> <p>16 into an account that has not been opened?</p> <p>17 A. To my knowledge, no.</p> <p>18 Q. Okay.</p> <p>19 A. My understanding was different. Left them</p> <p>20 here and we see what's gonna happen, something like</p> <p>21 that.</p> <p>22 Q. Okay. And the exhibit we looked at</p> <p>23 earlier, Exhibit 2, it indicates that W.A.M. hadn't</p> <p>24 accepted the account until October of 2013, correct?</p>
<p style="text-align: right;">Page 236</p> <p>1 A. I see that in 2016. Again, I never know at</p> <p>2 that time.</p> <p>3 Q. Right. You never heard the account was</p> <p>4 opened at all.</p> <p>5 A. Never.</p> <p>6 MR. ANDERSON: Apologize, your Honor.</p> <p>7 THE COURT: Take your time.</p> <p>8 BY MR. ANDERSON:</p> <p>9 Q. Just before lunch Mr. Nork asked you some</p> <p>10 questions about what had been marked as Exhibit 63</p> <p>11 and those questions pertained to whether you had</p> <p>12 ever heard of a company called "Weiser Capital"</p> <p>13 prior to this lawsuit.</p> <p>14 Do you recall those questions?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. And I think he had you look at the</p> <p>17 document and see if it refreshed your memory and the</p> <p>18 name "Weiser Capital Limited" came up in,</p> <p>19 apparently, somewhere in the history of Anavex</p> <p>20 filings.</p> <p>21 You understood yesterday when I was asking</p> <p>22 you questions, I had asked you if you'd ever heard</p> <p>23 of Weiser Capital and you understood I was talking</p> <p>24 about Weiser Bahamas Limited, correct?</p>	<p style="text-align: right;">Page 237</p> <p>1 MR. NORK: Objection, leading.</p> <p>2 THE COURT: Sustained.</p> <p>3 BY MR. ANDERSON:</p> <p>4 Q. Okay. When we were preparing for trial --</p> <p>5 strike that.</p> <p>6 THE COURT: I wasn't quite sure how that</p> <p>7 was going to go.</p> <p>8 BY MR. ANDERSON:</p> <p>9 Q. All right. What was your understanding</p> <p>10 yesterday when I was asking you questions of what</p> <p>11 company Weiser Capital was?</p> <p>12 A. After this complaint begin in 2016, I know</p> <p>13 Weiser Asset Management. There's too many Weisers</p> <p>14 in Mr. Christos Livadas. I never pay attention. I</p> <p>15 knew it as "Weiser." I knew it as a company in</p> <p>16 Bahamas with my friend Christos Livadas. That's all</p> <p>17 I cared in that point.</p> <p>18 Q. Okay. Now --</p> <p>19 A. Maybe they call it whatever they like to</p> <p>20 call it, but how can I know all these things? It's</p> <p>21 not my business.</p> <p>22 Q. The Exhibit 63 that was shown to you was</p> <p>23 prepared a number of years ago, correct? You don't</p> <p>24 have it but --</p>

<p style="text-align: right;">Page 238</p> <p>1 A. Okay. Go ahead.</p> <p>2 Q. Do you remember every name you've ever seen</p> <p>3 in any corporate filing or public filing of Anavex?</p> <p>4 A. No. Can I add?</p> <p>5 Q. No. There's no question pending, sir.</p> <p>6 You were asked some questions about the</p> <p>7 fact that you hadn't received statements on your</p> <p>8 Greek bank accounts because there was no activity,</p> <p>9 correct?</p> <p>10 A. Correct.</p> <p>11 Q. And Mr. Nork said that was the same with</p> <p>12 Weiser Asset Management. There was no activity so</p> <p>13 you received no statements, correct?</p> <p>14 A. Correct.</p> <p>15 Q. But if there had been activity on the</p> <p>16 account -- or had it been open and had there been</p> <p>17 activity, would you have expected statements to be</p> <p>18 sent to you?</p> <p>19 A. Yes --</p> <p>20 Q. Okay.</p> <p>21 A. -- monthly.</p> <p>22 Q. Do you believe that broker dealers are</p> <p>23 different than Greek banks?</p> <p>24 A. Broker dealers North America, my brother</p>	<p style="text-align: right;">Page 239</p> <p>1 have an account in Utah and one --</p> <p>2 MR. NORK: Nonresponsive.</p> <p>3 THE COURT: It would also be hearsay.</p> <p>4 THE WITNESS: I'm sorry.</p> <p>5 THE COURT: The question was, Do you</p> <p>6 believe that broker dealers in the United States are</p> <p>7 different than Greek banks?</p> <p>8 THE WITNESS: They're all the same, I</p> <p>9 think. The rules are pretty much the same.</p> <p>10 BY MR. ANDERSON:</p> <p>11 Q. Okay.</p> <p>12 A. Except as the time, the last few years with</p> <p>13 the distress, the Greek banks they go -- some of</p> <p>14 them, they shut down, the small ones. The rest of</p> <p>15 the big ones they've been rescued by the government</p> <p>16 and by the European Central Bank.</p> <p>17 It's very difficult. Even the statement I</p> <p>18 tried to provide, I have a big argument with one of</p> <p>19 the people there because they have too many</p> <p>20 problems. They shut down everything and firing</p> <p>21 people. If you're not active, a good client, like,</p> <p>22 I never have a mortgage. I don't have an active</p> <p>23 account. They can get boring to go to look for my</p> <p>24 previous.</p>
<p style="text-align: right;">Page 240</p> <p>1 BY MR. ANDERSON:</p> <p>2 Q. Okay. Would you turn to Exhibit 6, please.</p> <p>3 This was the email Mr. Nork was asking you about and</p> <p>4 how you were directing Mr. Livadas to try to get</p> <p>5 money for you, right?</p> <p>6 A. Correct.</p> <p>7 Q. This was not -- this email you weren't</p> <p>8 asking him to retrieve money or withdraw money from</p> <p>9 any sort of brokerage account, correct?</p> <p>10 MR. NORK: Objection, leading.</p> <p>11 THE COURT: Sustained.</p> <p>12 BY MR. ANDERSON:</p> <p>13 Q. Was this email asking Mr. Livadas to</p> <p>14 withdraw money from a brokerage account?</p> <p>15 A. No.</p> <p>16 MR. ANDERSON: Court's indulgence just a</p> <p>17 moment.</p> <p>18 THE COURT: Okay.</p> <p>19 MR. ANDERSON: No further questions.</p> <p>20 THE COURT: Do you have additional</p> <p>21 questions?</p> <p>22 MR. NORK: I do, your Honor.</p> <p>23 THE COURT: We'll take our afternoon recess</p> <p>24 now. When we come back we can do your re-cross</p>	<p style="text-align: right;">Page 241</p> <p>1 based on the redirect.</p> <p>2 Is Mr. Pedafronimos here?</p> <p>3 MR. ANDERSON: I believe he's here or on</p> <p>4 his way.</p> <p>5 THE COURT: Okay, good. And that's the</p> <p>6 last witness for the day?</p> <p>7 MR. ANDERSON: That's the last witness for</p> <p>8 the trial, I believe.</p> <p>9 THE COURT: Is that correct, Mr. Nork?</p> <p>10 MR. NORK: That's correct.</p> <p>11 THE COURT: All right. We'll get through</p> <p>12 this today. Court is in recess.</p> <p>13 (Recess taken.)</p> <p>14 THE COURT: Please be seated. We'll go</p> <p>15 back on the record in Weiser v. Skarpelos.</p> <p>16 Mr. Nork, you may do your re-cross based on</p> <p>17 the redirect.</p> <p>18 RE-CROSS-EXAMINATION</p> <p>19 BY MR. NORK:</p> <p>20 Q. Mr. Skarpelos, can you turn, please, to</p> <p>21 Exhibit 8. You were asked questions on redirect</p> <p>22 about the attachments that were included in this</p> <p>23 identity verification form. Do you remember that?</p> <p>24 A. Correct.</p>

<p style="text-align: right;">Page 242</p> <p>1 Q. Okay. And you were asked did W.A.M. care 2 about the letter from the bank. Do you remember 3 being asked that? 4 A. Yes. 5 Q. Okay. Well, let me ask you this: Did 6 W.A.M. know that this letter from the bank was not 7 accurate? 8 A. The letter from the bank is accurate. I 9 never say it's not accurate. 10 Q. Okay. Did you operate a checking and 11 savings account at Alpha Bank? 12 A. Probably they figured -- 13 Q. No. No the question is, Did you operate 14 the checking and savings account at Alpha Bank? 15 A. No. It is what it is. 16 Q. I agree with that. 17 A. I don't believe -- 18 THE COURT: Hold on, Mr. Skarpelos. 19 There's no question. 20 BY MR. NORK: 21 Q. And the previous document, what is that, 22 365? 23 A. I don't see nothing. It's a very -- 24 Q. Is this your power bill?</p>	<p style="text-align: right;">Page 243</p> <p>1 A. Yes, power bill. 2 Q. I don't know if you're looking at the -- 3 A. It is a power bill. 4 THE COURT: I can see it from here. He's 5 looking at it. 6 THE WITNESS: Yes. 7 BY MR. NORK: 8 Q. What's the date range of the power bill? 9 A. 2011. The spring of 2011. 10 Q. What are the months? 11 A. Fifth and seventh. 12 Q. Okay. So, May through July of 2011? 13 A. Yeah. 14 Q. So, you provided this after you opened the 15 account at W.A.M., correct? 16 A. Correct. 17 Q. When did you provide this? 18 A. Pardon me? 19 Q. When did you provide this? 20 A. This one? I don't remember. Probably I 21 mail it later. I don't remember exactly. 22 Q. Okay. But at some point after July of 2011 23 you provided additional documentation to W.A.M. as 24 part of your account. Is that correct?</p>
<p style="text-align: right;">Page 244</p> <p>1 A. I really don't remember. Maybe they asked 2 me -- 3 Q. No. I don't want you to speculate. 4 A. I don't remember literally. 5 Q. You don't remember. 6 A. No. 7 Q. But what you do know is this utility bill 8 is through July of 2011, correct? 9 A. Correct. Yes. 10 Q. And so mathematically you cannot have 11 provided that in The Bahamas in May of 2011. 12 Is that correct? 13 A. Probably, yes. 14 Q. But you don't remember how you eventually 15 got it to W.A.M. 16 A. This paper here? 17 Q. Yes, sir. You don't remember how you got 18 it there. 19 A. This paper, how it -- I email it to them. 20 Q. I don't want you to guess. 21 Do you remember? 22 A. I don't remember. 23 Q. Okay. Then you were asked questions on 24 redirect about you having lots of emails and</p>	<p style="text-align: right;">Page 245</p> <p>1 telephone calls with Mr. Livadas in 2011, 2012, and 2 beginning the 2013, correct? 3 A. Correct. 4 Q. And during that time you were under the 5 understanding that he was the boss of W.A.M., 6 correct? 7 A. Correct. 8 Q. And at that time you testified that he was 9 one of your primary contacts at W.A.M. 10 A. One of them. 11 Q. That's what I said. Correct? 12 A. Yes, correct. 13 Q. Okay. And you said that you grew 14 suspicious and concerned and lost faith in Mr. 15 Livadas because he kept saying, "Don't worry about 16 your stock," correct? 17 A. Correct. 18 Q. But that's very different than what your 19 counsel represented. Isn't that right? If you go 20 to Exhibit 49 -- 21 A. Correct. I have it. 22 Q. -- the last sentence of the second 23 paragraph, "Mr. Skarpelos tried many times to reach 24 his contact at Weiser to get his shares back but was</p>

<p style="text-align: right;">Page 246</p> <p>1 unsuccessful in connecting with anyone in authority</p> <p>2 and Mr. Skarpelos was alarmed when Weiser then</p> <p>3 stopped answering their phones."</p> <p>4 So, at least according to this letter from</p> <p>5 your attorney, it wasn't that you were getting</p> <p>6 messages saying, "Don't worry." It was that you</p> <p>7 couldn't reach anyone, correct?</p> <p>8 A. In authority.</p> <p>9 Q. You understood he was the boss. You</p> <p>10 testified to that.</p> <p>11 A. In authority.</p> <p>12 Q. Did you testify that you believed he was</p> <p>13 the boss?</p> <p>14 A. Boss is different with authority. Boss can</p> <p>15 be an owner. Authority was the official, the</p> <p>16 integral officer and the COO of the company, once</p> <p>17 they told me at the time I was in The Bahamas.</p> <p>18 Mr. Livadas just the boss. That's my</p> <p>19 understanding. But he was not the compliant</p> <p>20 officer. I have to deal with the compliant officer</p> <p>21 they refer to me all the time.</p> <p>22 Q. Do you remember your declaration in support</p> <p>23 of your motion for summary judgment?</p> <p>24 A. I don't remember off my head.</p>	<p style="text-align: right;">Page 247</p> <p>1 Q. Okay. Does it sound consistent that you</p> <p>2 made the allegation, "I could not reach anyone with</p> <p>3 Weiser to make a demand to return the stock"?</p> <p>4 A. Correct.</p> <p>5 Q. But you could reach someone at Weiser. You</p> <p>6 could talk to the boss as many times as you wanted,</p> <p>7 correct?</p> <p>8 A. Correct.</p> <p>9 Q. Okay. Please turn to Exhibit 40. You were</p> <p>10 asked questions about this on redirect.</p> <p>11 Do you have it?</p> <p>12 A. I have it, yes.</p> <p>13 Q. You were asked on this on redirect,</p> <p>14 correct?</p> <p>15 A. Yes.</p> <p>16 Q. All right. And this email exchange between</p> <p>17 you and Mr. Livadas happened around the same time</p> <p>18 that you were giving away your shares of stock,</p> <p>19 correct?</p> <p>20 A. Correct.</p> <p>21 Q. All right. The first email that Mr.</p> <p>22 Livadas sends to you says at the bottom, "I have</p> <p>23 everything ready for money and Christopher to go</p> <p>24 ahead." Do you see that?</p>
<p style="text-align: right;">Page 248</p> <p>1 A. I don't understand the flow of the emails</p> <p>2 but it says that here, yes, correct.</p> <p>3 THE COURT: Mr. Skarpelos, the question is,</p> <p>4 Do you see it?</p> <p>5 THE WITNESS: Correct, yes. Thank you. I</p> <p>6 seen it.</p> <p>7 BY MR. NORK:</p> <p>8 Q. Do you know who Christopher is?</p> <p>9 A. Christopher is the CEO of Anavex Life</p> <p>10 Science.</p> <p>11 Q. Okay. And how long -- as of October 2013</p> <p>12 how long had he been the CEO?</p> <p>13 A. He started, I believe, in the summer -- in</p> <p>14 September, October of -- the end of the summer of</p> <p>15 2013. He became the second after myself in the</p> <p>16 company, if I remember.</p> <p>17 Q. By the way, did Mr. Livadas play any role</p> <p>18 in you getting Mr. Christopher to be the CEO?</p> <p>19 A. He's known Mr. Christopher, yes.</p> <p>20 Q. He knows him?</p> <p>21 A. Mr. Christopher is very well known banker</p> <p>22 in Manhattan, in New York.</p> <p>23 Q. Okay.</p> <p>24 A. And a lot of people -- everybody knows.</p>	<p style="text-align: right;">Page 249</p> <p>1 Christos, of course, know him.</p> <p>2 Q. Okay. You believe Mr. Livadas knew</p> <p>3 Christopher, your new CEO --</p> <p>4 A. Of course.</p> <p>5 Q. -- beforehand?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. And did you understand that the</p> <p>8 message, "I have everything ready for money and</p> <p>9 Christopher to go ahead," did you understand that it</p> <p>10 had to do with the sale of your stock to Chinese</p> <p>11 buyers?</p> <p>12 A. It has nothing to do with my sale to</p> <p>13 Chinese buyers.</p> <p>14 Q. Nothing to do with it.</p> <p>15 A. Zero.</p> <p>16 Q. Okay. So, I have the timing straight, in</p> <p>17 2007 with Mr. Livadas' assistance you sold stock but</p> <p>18 never got money, correct?</p> <p>19 A. Correct.</p> <p>20 Q. Two years later you sold stock in 2009</p> <p>21 three separate times where you never got money,</p> <p>22 correct?</p> <p>23 A. Correct.</p> <p>24 Q. In 2011 you opened an account with W.A.M.</p>

<p style="text-align: right;">Page 250</p> <p>1 and you believe you couldn't reach anyone to find 2 out where your stock was, correct? 3 A. Correct. 4 Q. And you lost faith in Mr. Livadas, correct? 5 A. Pretty much. 6 Q. A few months after that you started dealing 7 with Mr. Livadas again to sell more stock to your 8 Chinese investors. 9 A. I said, again, like I said earlier many 10 times in my depositions through my direct 11 examinations and my cross-examination, it was 12 preliminary discussions. Me and Mr. Christos Livada 13 was very good friends back then. 14 Q. So, you continued to do business with him 15 despite the history that I just outlined, correct? 16 A. The way I see it -- 17 Q. Sir -- 18 A. Discussions. Discussions, yes. 19 Q. Okay. 20 MR. NORK: Nothing further. Thank you. 21 THE COURT: Mr. Skarpelos, you may step 22 down. Thank you for your testimony. 23 Mr. Anderson, do you wish to call 24 Mr. Pedafronimos?</p>	<p style="text-align: right;">Page 251</p> <p>1 MR. ANDERSON: Yes. 2 (Witness sworn.) 3 DIRECT EXAMINATION 4 BY MR. ANDERSON: 5 Q. Would you please state your full name. 6 A. Lambros Pedafronimos. 7 Q. Would you please spell your last name? 8 A. P-e-d-a-f-r-o-n-i-m-o-s. 9 Q. Where do you reside? 10 A. Athens, Greece. 11 Q. Have you always lived in Athens? 12 A. No. I was born and raised in Canada. 13 Q. When did you move to Athens? 14 A. 2003, 2004. 15 Q. What is your educational background? 16 A. High school and a Canadian securities 17 course. 18 Q. What was involved in that Canadian 19 securities course? 20 A. World regulations pertaining to securities 21 in Canada. So, after you'd finish that course, 22 you'd get your license to be a broker at a broker 23 firm only in Canada. 24 Q. Okay. Do you have a license to be a broker</p>
<p style="text-align: right;">Page 252</p> <p>1 in Canada? 2 A. No. I never applied to finish the process. 3 Q. Okay. Can you please give us an idea of 4 your work background. 5 A. My work background, so when I was younger I 6 had a beer company, small one. I would sell kegs 7 wholesale to parties. And I worked at a marketing 8 company as well for about a year and a half. 9 Q. Okay. 10 A. That's about it. 11 Q. At some point in time did you become 12 involved in a diamond mining business? 13 A. My father -- through my father. He had an 14 exploration company and I did some clerical work for 15 him for about two years. 16 Q. And what's your father's name? 17 A. Nikolaos Pedafronimos. 18 Q. At some point did you move from Canada to 19 Greece? 20 A. We did. 21 Q. And did you do anything for work when you 22 went to Greece? 23 A. Mostly stuff with the family estate 24 vineyard.</p>	<p style="text-align: right;">Page 253</p> <p>1 Q. Okay. Is that a wine vineyard? 2 A. Yeah. 3 Q. What did you do for the wine vineyard? 4 A. So, I was involved in the production of the 5 wine, the harvesting, sales, pretty much everything, 6 the whole gamut. 7 Q. Okay. At some point did you also become 8 involved in trading stocks? 9 A. Yeah. 10 Q. Tell us about that background. 11 A. So, through my father and his experience 12 with public companies, I got accustomed to hearing 13 and learning about everything having to do with 14 equities. So, we did some trading in stocks and 15 some options, for pretty much myself and my father. 16 Q. Okay. You don't provide any sort of 17 service to outside parties? 18 A. No, no. 19 Q. How do you know Tom Skarpelos? 20 A. He's my cousin. 21 Q. Okay. And under the circumstances of this 22 case, you provided some sort of assistance with him 23 in discussions involving a sale of stock, correct? 24 A. Correct.</p>

<p style="text-align: right;">Page 254</p> <p>1 Q. Okay. Other than that -- and that happened</p> <p>2 in July of 2013.</p> <p>3 A. Correct.</p> <p>4 Q. June or July.</p> <p>5 A. July.</p> <p>6 Q. Okay. Other than that assistance, Mr.</p> <p>7 Skarpelos, have you been involved in any other</p> <p>8 business dealings?</p> <p>9 A. Business, no never.</p> <p>10 Q. Okay.</p> <p>11 THE COURT: You just called him "Mr.</p> <p>12 Skarpelos," by the way.</p> <p>13 MR. ANDERSON: Oh, I did?</p> <p>14 BY MR. ANDERSON:</p> <p>15 Q. All right. Mr. Pedafronimos, have you been</p> <p>16 involved in other business dealings with Mr.</p> <p>17 Skarpelos besides the July 2013 --</p> <p>18 A. No.</p> <p>19 Q. Okay. Who is Christos Livadas?</p> <p>20 A. He's a friend.</p> <p>21 Q. How long have you known him?</p> <p>22 A. I met him when I was very young through the</p> <p>23 Greek community and through Tom and also saw him in</p> <p>24 Athens in 2007, 2008. We vacationed together in</p>	<p style="text-align: right;">Page 255</p> <p>1 2012, 2013, and I was in Bahamas as well in May of</p> <p>2 2011.</p> <p>3 Q. Okay. I think you just said you traveled</p> <p>4 with Mr. Livadas in October of 2015?</p> <p>5 A. Not 2015.</p> <p>6 Q. Okay.</p> <p>7 A. 2013. So, it was August -- August,</p> <p>8 September and mid-October.</p> <p>9 Q. Okay. And do you have an understanding of</p> <p>10 what Mr. Livadas does for a profession?</p> <p>11 A. When I was introduced to him, he was with</p> <p>12 Nici? -- yeah. In 2011 when I went down to The</p> <p>13 Bahamas, I was introduced to Weiser Asset Management</p> <p>14 as well, so he was doing asset management stuff.</p> <p>15 Q. Okay. We'll get to that in a minute.</p> <p>16 Let's talk about Anavex Life Sciences.</p> <p>17 Do you know what that is?</p> <p>18 A. I do.</p> <p>19 Q. Okay. What is Anavex?</p> <p>20 A. Publicly traded company on the NASDAQ stock</p> <p>21 market, does research and development on drugs that</p> <p>22 have to do with the central nervous system.</p> <p>23 Q. Are you a shareholder in Anavex?</p> <p>24 A. I am.</p>
<p style="text-align: right;">Page 256</p> <p>1 Q. And when did you acquire your shares?</p> <p>2 A. Different points in time. First time was</p> <p>3 in 2012, January.</p> <p>4 Q. Did you acquire any shares at any time from</p> <p>5 Mr. Skarpelos?</p> <p>6 A. No.</p> <p>7 Q. Okay. And how did you acquire your shares?</p> <p>8 Was it through a public exchange?</p> <p>9 A. Private transaction.</p> <p>10 Q. Okay. Can you briefly describe that</p> <p>11 process.</p> <p>12 A. The process of --</p> <p>13 Q. Private transaction.</p> <p>14 A. A buyer and seller in a private</p> <p>15 transaction?</p> <p>16 Q. Yes.</p> <p>17 A. So, a buyer that has money goes to a seller</p> <p>18 that has a stock. Depends on where the stock is, if</p> <p>19 it's in his brokerage account or it's in physical</p> <p>20 form.</p> <p>21 If it's in physical form, the seller has to</p> <p>22 deposit it with a transfer agency. Has to provide a</p> <p>23 letter of opinion, as well as a representation</p> <p>24 letter, and legal opinion from the company's counsel</p>	<p style="text-align: right;">Page 257</p> <p>1 along with two forms of ID.</p> <p>2 They transfer all that stuff in, it gets</p> <p>3 approved, and then the seller would give -- send us</p> <p>4 a letter of direction to the transfer agent to</p> <p>5 transfer to the buyer.</p> <p>6 THE COURT: When did you buy your shares in</p> <p>7 Anavex?</p> <p>8 THE WITNESS: January of 2012.</p> <p>9 BY MR. ANDERSON:</p> <p>10 Q. And did you deposit your shares somewhere?</p> <p>11 A. I did.</p> <p>12 Q. Where?</p> <p>13 A. Vermont.</p> <p>14 Q. What is that?</p> <p>15 A. A broker in Panama.</p> <p>16 Q. Okay. Is Vermont still in existence?</p> <p>17 A. It is not.</p> <p>18 Q. Are you aware what happened to them?</p> <p>19 A. I read the complaint against them. They</p> <p>20 filed for bankruptcy in 2016. Complaint was filed</p> <p>21 by the SEC in 2015. They did some funny stuff.</p> <p>22 MR. NORK: Objection, hearsay.</p> <p>23 THE COURT: Mr. Anderson.</p> <p>24 MR. ANDERSON: I'll withdraw the -- I guess</p>

<p style="text-align: right;">Page 258</p> <p>1 the portion where "they did some funny stuff."</p> <p>2 THE COURT: Is that what you were objecting</p> <p>3 to, Mr. Nork?</p> <p>4 MR. NORK: Yes, your Honor.</p> <p>5 THE COURT: Sustained.</p> <p>6 BY MR. ANDERSON:</p> <p>7 Q. Did you ever open a W.A.M. account?</p> <p>8 A. Never.</p> <p>9 Q. And by "W.A.M." I'm referring to Weiser</p> <p>10 Asset Management.</p> <p>11 A. Yes.</p> <p>12 Q. Okay. Do you know whether Weiser Asset</p> <p>13 Management had any relationship with Vermont --</p> <p>14 A. If or --</p> <p>15 Q. -- if they did.</p> <p>16 A. If they had a relationship with --</p> <p>17 Q. Yes.</p> <p>18 A. I believe they had a custom and</p> <p>19 correspondent relationship in 2014.</p> <p>20 Q. You've never been an officer or director of</p> <p>21 Anavex, correct?</p> <p>22 A. Never.</p> <p>23 Q. When did you first hear of Weiser Asset</p> <p>24 Management?</p>	<p style="text-align: right;">Page 259</p> <p>1 A. In May of 2011.</p> <p>2 Q. Okay. And how did you become aware of it?</p> <p>3 A. I was in The Bahamas and I was introduced</p> <p>4 to W.A.M. by Mr. Livadas.</p> <p>5 Q. I think you just indicated that you were</p> <p>6 introduced to W.A.M. by Mr. Livadas.</p> <p>7 A. Yeah.</p> <p>8 Q. Okay. And you mentioned earlier that you</p> <p>9 were in The Bahamas in May of 2011.</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Did you accompany Mr. Skarpelos to a</p> <p>12 meeting with Weiser Asset Management?</p> <p>13 A. I accompanied Skarpelos to the offices of</p> <p>14 Equity Trust Bahamas.</p> <p>15 Q. Okay. What is that?</p> <p>16 A. It's a trust company.</p> <p>17 MR. NORK: Objection, lacks foundation.</p> <p>18 THE COURT: You're testifying from personal</p> <p>19 knowledge, correct?</p> <p>20 THE WITNESS: Yes.</p> <p>21 THE COURT: Overruled. I just inferred</p> <p>22 that from the way he answered the question, that it</p> <p>23 wasn't a speculative answer. Go ahead.</p> <p>24</p>
<p style="text-align: right;">Page 260</p> <p>1 BY MR. ANDERSON:</p> <p>2 Q. What is Equity Trust Bahamas?</p> <p>3 A. A trust company.</p> <p>4 Q. And do you know why a meeting took place</p> <p>5 there?</p> <p>6 A. I don't want to assume but that's where</p> <p>7 they told Tom to go so ...</p> <p>8 Q. Was Mr. Skarpelos going there for a</p> <p>9 particular purpose?</p> <p>10 A. To provide his certificates and complete</p> <p>11 account opening application form for Weiser Asset</p> <p>12 Management account.</p> <p>13 Q. And did you participate in that process of</p> <p>14 the account application?</p> <p>15 A. I was present during the process.</p> <p>16 Q. Okay.</p> <p>17 A. By "participate" --</p> <p>18 Q. Did you actively engage with anybody from</p> <p>19 Weiser Asset Management or Mr. Skarpelos in filling</p> <p>20 out the application?</p> <p>21 A. No. No.</p> <p>22 Q. Okay. Did Mr. Skarpelos ask you any</p> <p>23 questions during that process?</p> <p>24 A. He did.</p>	<p style="text-align: right;">Page 261</p> <p>1 Q. And what did he ask you?</p> <p>2 A. So, Tom, when he doesn't understand</p> <p>3 something, he would ask me if I can translate it for</p> <p>4 him. He wanted to make sure that his account would</p> <p>5 only be cash, cash only. He didn't want anything to</p> <p>6 do with margin account. That was about it.</p> <p>7 Q. Okay. Did you hear Weiser Asset Management</p> <p>8 tell Mr. Skarpelos anything about the cash versus</p> <p>9 margin account?</p> <p>10 A. No. It was an explanation of those two</p> <p>11 different things. He wanted to make clear to Howard</p> <p>12 that there would be no way he would be able to have</p> <p>13 a margin on that account.</p> <p>14 Q. And by "margin," what do you mean?</p> <p>15 A. Margin -- when you're shorting a stock,</p> <p>16 when you're buying a stock, the house gives you</p> <p>17 credit in order for you to do that.</p> <p>18 Q. So, Mr. Skarpelos, didn't want the ability</p> <p>19 to have credit on this.</p> <p>20 A. Correct.</p> <p>21 Q. Okay. Did you ever receive a W.A.M.</p> <p>22 account application?</p> <p>23 A. No -- yes, I did. Sorry. 2012 from Nick</p> <p>24 Boutsalis.</p>

<p style="text-align: right;">Page 262</p> <p>1 Q. Okay. Who is Mr. Boutsalis?</p> <p>2 A. He is -- I don't know what official</p> <p>3 position he has but he works in Primoris.</p> <p>4 Q. Was he involved with Weiser Asset</p> <p>5 Management at the time you received that?</p> <p>6 A. To my knowledge, no.</p> <p>7 Q. Do you have any idea why you'd be receiving</p> <p>8 it from him?</p> <p>9 A. Yeah. There were discussions, I believe,</p> <p>10 at that time for me to open up an account, and that</p> <p>11 was about it.</p> <p>12 Q. But you never did.</p> <p>13 A. No.</p> <p>14 Q. Did you ever submit an application?</p> <p>15 A. No.</p> <p>16 Q. Have you ever seen any documentation from</p> <p>17 W.A.M. confirming that Mr. Skarpelos' account was</p> <p>18 actually opened?</p> <p>19 A. No.</p> <p>20 Q. Turn to Exhibit 2, please, in particular</p> <p>21 the last page, do you see that section below that</p> <p>22 says "Internal"?</p> <p>23 A. I do.</p> <p>24 Q. When was the first time you ever saw this</p>	<p style="text-align: right;">Page 263</p> <p>1 document that had completed that internal section on</p> <p>2 it?</p> <p>3 A. During discovery.</p> <p>4 Q. In this lawsuit?</p> <p>5 A. Yeah.</p> <p>6 Q. Okay. Are you aware of any information</p> <p>7 that you've ever received that Mr. Skarpelos' Weiser</p> <p>8 account had been opened?</p> <p>9 A. Am I aware of any information?</p> <p>10 Q. Yes. Let me withdraw that.</p> <p>11 Were you ever made aware at any time prior</p> <p>12 to this lawsuit that the Weiser Asset Management</p> <p>13 account application that Mr. Skarpelos submitted was</p> <p>14 approved?</p> <p>15 A. No.</p> <p>16 Q. Did you ever tell Mr. Livadas that the</p> <p>17 account had been opened?</p> <p>18 A. How would I know that?</p> <p>19 Q. My question is, Did you ever tell him that?</p> <p>20 A. No. No.</p> <p>21 Q. Okay. Would you look at Exhibit 8, please.</p> <p>22 Have you seen this document before? By</p> <p>23 "before" I mean before this lawsuit.</p> <p>24 A. Before this lawsuit, I believe so.</p>
<p style="text-align: right;">Page 264</p> <p>1 Q. Okay. What's your understanding of what</p> <p>2 this document is?</p> <p>3 A. A Get to Know Your Client form.</p> <p>4 Q. What's that.</p> <p>5 A. It's to identify who you are to the broker.</p> <p>6 Q. Okay. And would you read that first</p> <p>7 paragraph to yourself, please, and then I'll ask you</p> <p>8 a question.</p> <p>9 (Witness reviewing document.)</p> <p>10 BY MR. ANDERSON:</p> <p>11 Q. Did you ever submit a Know Your Customer</p> <p>12 form to Weiser Asset Management?</p> <p>13 A. No.</p> <p>14 Q. You never completed a document that looks</p> <p>15 like this and submitted it to them?</p> <p>16 A. (Witness shakes head.)</p> <p>17 Q. Is that "no"?</p> <p>18 A. No.</p> <p>19 THE COURT: Mr. Pedafronimos, please let</p> <p>20 Mr. Anderson ask you the entire question before you</p> <p>21 begin to answer. You obviously are understanding</p> <p>22 what the question is as he's asking it, but you're</p> <p>23 interjecting your answer before he's finished, and</p> <p>24 it's difficult for the court reporter to take down</p>	<p style="text-align: right;">Page 265</p> <p>1 two people talking simultaneously.</p> <p>2 THE WITNESS: My apologies.</p> <p>3 THE COURT: That's okay. I appreciate your</p> <p>4 apology. Go ahead, Mr. Anderson.</p> <p>5 BY MR. ANDERSON:</p> <p>6 Q. So, you never completed a form like this</p> <p>7 for Mr. Skarpelos' account application.</p> <p>8 A. No.</p> <p>9 Q. Okay. Did you ever become authorized in</p> <p>10 any way, either a power of attorney or a trading</p> <p>11 authorization, to direct transactions on an account</p> <p>12 for Mr. Skarpelos?</p> <p>13 A. No.</p> <p>14 Q. Okay. Did you ever submit anything to Mr.</p> <p>15 Livadas indicating that you were authorized to</p> <p>16 transact on Mr. Skarpelos' account?</p> <p>17 A. No.</p> <p>18 Q. Would you look at Exhibit 10, please -- I'm</p> <p>19 sorry. Exhibit 9. What is that document?</p> <p>20 A. It's a copy of my passport.</p> <p>21 Q. Okay. Do you know why Weiser Asset</p> <p>22 Management would have a copy of your passport in its</p> <p>23 possession?</p> <p>24 A. I do not.</p>

<p style="text-align: right;">Page 266</p> <p>1 Q. Okay. Is this a Know Your Customer 2 information form? 3 A. No, it is not. 4 Q. Okay. Do you recall submitting this to 5 W.A.M. at any time? 6 A. I do not. 7 Q. Okay. You don't have any idea why W.A.M. 8 would have this? 9 A. I do not. 10 Q. Okay. But you did travel extensively with 11 Mr. Livadas throughout the past several years. 12 A. I did. 13 Q. Okay. Did you ever see anything that 14 indicated a log-in information like a password or an 15 account for Mr. Skarpelos at W.A.M.? 16 A. I did not. 17 Q. Did you ever see any account statements for 18 Mr. Skarpelos' account at W.A.M.? 19 A. No. 20 Q. After May 2011 did you ever communicate 21 with any W.A.M. personnel at all? 22 A. "Personnel" you mean -- 23 Q. Who did you speak with that might be 24 affiliated with W.A.M. after May 2011?</p>	<p style="text-align: right;">Page 267</p> <p>1 A. Only Christos. 2 Q. And what was your understanding of his role 3 with W.A.M.? 4 A. It was his. 5 Q. Okay. Do you know whether he had a formal 6 affiliation with the company? 7 A. No. My understanding of his involvement 8 was that he was the owner of Weiser Asset 9 Management. It was his baby, his boutique firm that 10 he was launching. 11 Q. Okay. Did he tell you that? 12 A. That was my understanding. 13 Q. Okay. Based on what? 14 A. Based on him telling me come down to The 15 Bahamas, boutique firm. 16 Q. Okay. If he testified that he was not 17 formally involved with Weiser Asset Management prior 18 to that, would you have any reason to disagree? 19 A. I do. Everybody listened to Christos down 20 there, so he was the person that was calling the 21 shots. 22 Q. Now, at some point in 2013 Mr. Skarpelos 23 was going to have a heart procedure, correct? 24 A. Correct.</p>
<p style="text-align: right;">Page 268</p> <p>1 Q. Okay. At any point in 2013, early 2013, 2 did you have discussions with Mr. Skarpelos about 3 possibly selling his stock? 4 A. There were discussions. General ideas were 5 thrown back and forth. 6 Q. Between whom? 7 A. Between me, Tom, Christos. 8 Q. Okay. And when you say "general," are you 9 talking about specific numbers? 10 A. No. 11 Q. Okay. And this was prior to his surgery, 12 correct? 13 A. Yes, I believe so. 14 Q. So, in the process of preparing for surgery 15 there was discussions -- or strike that. 16 In the time frame before his surgery, there 17 were general discussions, not referring to specific 18 numbers, between you, Tom and Christos? 19 A. Correct. 20 Q. Okay. Did anything -- did it get beyond 21 general discussions prior to his heart surgery? 22 A. No. 23 Q. Okay. And then at some point after 24 Mr. Skarpelos' heart surgery, did you hear from</p>	<p style="text-align: right;">Page 269</p> <p>1 Christos again -- 2 MR. ANDERSON: And I apologize, your Honor. 3 BY MR. ANDERSON: 4 Q. -- did you hear from Mr. Livadas again? 5 A. The question was -- can you please repeat 6 the question? 7 Q. Yes. After Mr. Skarpelos' heart surgery, 8 did you hear from Mr. Livadas again about the 9 subject of selling -- possibly selling some of Tom's 10 stock? 11 A. In June, July. 12 Q. Okay. Would you turn to Exhibit 20, 13 please. What is this document? 14 A. It looks -- it appears to be an email from 15 me to Christos, subject line being "Tom update." 16 Q. Okay. And it looks to me like he's asking 17 you if you're getting Tom's emails, correct? 18 A. Yes. 19 Q. And you respond that, "I monitor all of his 20 correspondence." 21 A. Yeah. 22 Q. Okay. At this point in time was Christos 23 contacting you about a stock sale or checking up on 24 Tom?</p>

<p style="text-align: right;">Page 270</p> <p>1 A. Just checking up on Tom.</p> <p>2 Q. Okay. But at some point in time after that</p> <p>3 you began working with Mr. Livadas to possibly sell</p> <p>4 some of Tom's stock.</p> <p>5 A. I was helping in the communications between</p> <p>6 Christos and Tom in late June, early July.</p> <p>7 Q. And what was your understanding of what Mr.</p> <p>8 Livadas' role was?</p> <p>9 A. To find a purchaser.</p> <p>10 Q. Okay. Was he sort of acting as a broker</p> <p>11 for Tom?</p> <p>12 A. More as a friend rather than a broker.</p> <p>13 Q. Okay. Was there any discussion ever that</p> <p>14 Mr. Livadas would receive some sort of commission</p> <p>15 for this work?</p> <p>16 A. Never.</p> <p>17 Q. Now, there's been some testimony in this</p> <p>18 case about number of shares and whatnot that Mr.</p> <p>19 Skarpelos might sell.</p> <p>20 Do you recall the number of 6.6 million</p> <p>21 shares ever coming up?</p> <p>22 A. It was.</p> <p>23 Q. Okay. When was that first discussed in</p> <p>24 2013?</p>	<p style="text-align: right;">Page 271</p> <p>1 A. Late June.</p> <p>2 Q. Okay. And are you aware that Mr. Skarpelos</p> <p>3 had restricted shares of Anavex stock?</p> <p>4 A. I am.</p> <p>5 Q. Okay. And are those restricted shares the</p> <p>6 ones that were the subject of a possible agreement?</p> <p>7 A. I wouldn't know.</p> <p>8 Q. Okay. Are you aware of whether Mr.</p> <p>9 Skarpelos has any shares other than restricted</p> <p>10 shares?</p> <p>11 A. Oh, I didn't -- my apologies. Can you</p> <p>12 repeat the last question?</p> <p>13 Q. Sure. If I can remember it.</p> <p>14 Were the shares that you were discussing</p> <p>15 possibly selling with Mr. Livadas restricted shares?</p> <p>16 A. All of Tom's shares are restricted.</p> <p>17 Q. Okay. And what's your understanding of a</p> <p>18 restricted share?</p> <p>19 A. A restricted share is you can't sell them.</p> <p>20 He's the director of the company. He has to receive</p> <p>21 certain approvals, certain documentations to be in</p> <p>22 place for Tom to be able to do anything with the</p> <p>23 stock.</p> <p>24 Q. Okay. So, it's not something he can just</p>
<p style="text-align: right;">Page 272</p> <p>1 go on the street and say, Hey, give me \$10 million</p> <p>2 for the shares?</p> <p>3 A. Right. I'm sorry. It's not an</p> <p>4 individual--</p> <p>5 Q. Not individual --</p> <p>6 A. -- investor.</p> <p>7 Q. Okay.</p> <p>8 A. He can't -- there's different rules and</p> <p>9 regulations that apply to Tom as a director than</p> <p>10 they would to an individual investor.</p> <p>11 Q. And at this point in July -- June, July of</p> <p>12 2013, did Mr. Livadas ever tell you that Tom had</p> <p>13 already sold 3.3 million shares or so of his stock?</p> <p>14 A. Never.</p> <p>15 Q. Did he ever mention in any way that there</p> <p>16 had been an April 2nd transaction by which Tom had</p> <p>17 sold some of his stock?</p> <p>18 A. Never.</p> <p>19 Q. If Mr. Skarpelos had sold 3.3 million</p> <p>20 shares in April, would there be any way to sell 6.6</p> <p>21 million in June or July?</p> <p>22 A. No.</p> <p>23 Q. Okay. Look at Exhibit 23, please.</p> <p>24 Have you seen this email before?</p>	<p style="text-align: right;">Page 273</p> <p>1 A. I have.</p> <p>2 Q. Okay. And what is it?</p> <p>3 A. It's a discussion between me and Christos.</p> <p>4 Q. Okay. If you look down to the bottom of</p> <p>5 the email, Mr. Livadas tells you, I have a call with</p> <p>6 them late tonight." Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. And at the time you received this email, do</p> <p>9 you remember what he meant by "them"?</p> <p>10 A. He was referring to the possible purchaser.</p> <p>11 Q. Okay. Did you have any understanding of</p> <p>12 who that might be?</p> <p>13 A. From -- only from the title of his text.</p> <p>14 Q. Okay. And we've heard in this case</p> <p>15 "Kineze" means Chinese in Greek, correct?</p> <p>16 A. Correct.</p> <p>17 Q. Was Mr. Skarpelos looking for a particular</p> <p>18 type of purchaser of his stock?</p> <p>19 A. There were discussions at that time when</p> <p>20 the number was 6.6 million that Tom not sell his</p> <p>21 entire position and stay on with half of his</p> <p>22 position so there'd be room for somebody that could</p> <p>23 help the company come in, somebody with, you know,</p> <p>24 clout, power, knowledge, to join the company to make</p>

<p style="text-align: right;">Page 274</p> <p>1 the company stronger at that point in time.</p> <p>2 Q. Okay. So, Mr. Skarpelos working through</p> <p>3 you wasn't just looking for anybody to pay \$250,000.</p> <p>4 There was another component that was necessary.</p> <p>5 A. At Tom's discretion, yes.</p> <p>6 Q. Do you have an understanding as to why Mr.</p> <p>7 Livadas is asking you for documents for a stock</p> <p>8 sale?</p> <p>9 A. Define "documents."</p> <p>10 Q. Yes. If you look at the top of Exhibit 23,</p> <p>11 he says, "Email me blank ones so I can show them what</p> <p>12 they'll be looking like." Do you see that?</p> <p>13 A. I do.</p> <p>14 Q. And why was Mr. Livadas asking you for</p> <p>15 sample documents?</p> <p>16 A. Other than communicating, one of my roles</p> <p>17 would be to find documentation as well. So, if he's</p> <p>18 asking me, Hey, Lambros, can you find a document so</p> <p>19 we can show the investors, send me blank ones to see</p> <p>20 what they'd be looking like, I would do that for</p> <p>21 Christos.</p> <p>22 Q. And you're not an attorney, correct?</p> <p>23 A. No.</p> <p>24 Q. And did you ever actually draft documents</p>	<p style="text-align: right;">Page 275</p> <p>1 to send to Mr. Livadas?</p> <p>2 A. From point A to point B, from the beginning</p> <p>3 to the end of a document?</p> <p>4 Q. Correct.</p> <p>5 A. To input values in a document? Yes, I did.</p> <p>6 Q. Okay. And what was your understanding of</p> <p>7 what Mr. Livadas meant when he said, "so I can show</p> <p>8 them what they'll be looking like"?</p> <p>9 A. My understanding was that he requested</p> <p>10 documents to show prospective investors --</p> <p>11 Q. Okay.</p> <p>12 A. -- what they might be looking like.</p> <p>13 Q. Okay. Would you turn to Exhibit 26,</p> <p>14 please. At the top of this email you state to Mr.</p> <p>15 Livadas, "We need someone to complete the language</p> <p>16 on the Purchase and Sale Agreement. Do we have</p> <p>17 anyone on our end for that?" Do you see that?</p> <p>18 A. Uh-huh.</p> <p>19 Q. Okay. What did you mean by "our end"?</p> <p>20 A. "Our end" would be somebody from mine or</p> <p>21 Christos' end, from our team.</p> <p>22 Q. Okay. And what did you mean by "complete</p> <p>23 the language"?</p> <p>24 A. To put it into proper format, either have</p>
<p style="text-align: right;">Page 276</p> <p>1 an attorney look at it or somebody that had</p> <p>2 experience with drafting these types of documents.</p> <p>3 Q. Okay. So, you understood that Mr. Livadas</p> <p>4 was working with you and Tom.</p> <p>5 A. Correct.</p> <p>6 Q. Would you turn to Exhibit 27, please. And</p> <p>7 it looks like you sent Mr. Livadas some revised</p> <p>8 documents.</p> <p>9 A. I did.</p> <p>10 Q. Okay. And does that include sort of</p> <p>11 adjusting the components you talked about earlier,</p> <p>12 the figures and whatnot?</p> <p>13 A. I don't recall if it was this specific date</p> <p>14 that the values and terms -- not the terms -- the</p> <p>15 values were changed on this one here. It might be</p> <p>16 another exhibit.</p> <p>17 Q. Okay. We'll get to that.</p> <p>18 Did Mr. Livadas let you know if any</p> <p>19 adjustments needed to be made?</p> <p>20 A. He did not.</p> <p>21 Q. Okay. And your understanding during this</p> <p>22 process is that he was just going to show these</p> <p>23 documents to the Chinese investors as examples?</p> <p>24</p>	<p style="text-align: right;">Page 277</p> <p>1 A. Yes.</p> <p>2 MR. NORK: Leading.</p> <p>3 THE COURT: Sustained.</p> <p>4 BY MR. ANDERSON:</p> <p>5 Q. What was your understanding of him getting</p> <p>6 these documents?</p> <p>7 A. To show them to possible investors.</p> <p>8 Q. As examples?</p> <p>9 A. As examples.</p> <p>10 Q. Now, if you look at Exhibit 28, please,</p> <p>11 this is -- this part of the email Mr. Livadas at the</p> <p>12 top tells you, "Don't forget they need to be</p> <p>13 notarized." Do you see that?</p> <p>14 A. I do.</p> <p>15 Q. Do you have an understanding of why Mr.</p> <p>16 Livadas asked that they be notarized?</p> <p>17 A. My understanding was that the copies needed</p> <p>18 to be notarized so he could show them to the</p> <p>19 possible investors.</p> <p>20 Q. And had you discussed this issue previously</p> <p>21 with Mr. Livadas?</p> <p>22 A. Which issue?</p> <p>23 Q. Well, in this Exhibit 28 he said, "Don't</p> <p>24 forget they need to be notarized," which would</p>

<p style="text-align: right;">Page 278</p> <p>1 suggest that there must have been some discussion 2 about that.</p> <p>3 A. The only way this would make sense if the 4 originals were notarized, not the copies. So, 5 notarizing copies wouldn't have any effect on 6 anything. He would just show them as a sample.</p> <p>7 Q. Okay. And that leads into my next question 8 where it says "Courier original to Bouts."</p> <p>9 Did you ever do that?</p> <p>10 A. No, never.</p> <p>11 Q. Okay. Do you know where the originals are?</p> <p>12 A. Um, to my knowledge, they're with NATCO.</p> <p>13 Q. Okay. Do you know for sure?</p> <p>14 A. No.</p> <p>15 Q. Okay. You don't know where they are.</p> <p>16 A. The original certificates, they were given 17 to the court.</p> <p>18 Q. No. These are -- I apologize. The 19 documents that are being discussed in this email 20 exchange are a Purchase and Sale Agreement and a 21 power of attorney, correct?</p> <p>22 A. Oh, the originals, yes. Tom has them in 23 his briefcase.</p> <p>24 Q. You've seen them?</p>	<p style="text-align: right;">Page 279</p> <p>1 A. Yeah.</p> <p>2 Q. Look at Exhibit 29, please. You referred 3 earlier to an email that had figures that were 4 updated. Is this that email?</p> <p>5 A. This is.</p> <p>6 Q. Okay. And what figures were being updated?</p> <p>7 A. The 6.6 million was turned into 3.316 8 million and the 500,000 was turned to \$250,000.</p> <p>9 Q. Okay. And was that for the purpose you 10 described earlier, to possibly attract a strategic 11 investor?</p> <p>12 A. This is the first time that the 13 3.316 million number literally came into existence.</p> <p>14 Q. Okay. And, again, was that because of the 15 discussion you mentioned earlier about a strategic 16 investor?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And --</p> <p>19 THE COURT: Hold on a sec. It's your 20 testimony this is the first time the 3.3 million 21 share figure came up?</p> <p>22 THE WITNESS: Correct.</p> <p>23 BY MR. ANDERSON:</p> <p>24 Q. If you would look at Exhibit 33, please.</p>
<p style="text-align: right;">Page 280</p> <p>1 MR. NORK: Thirty-three, counsel?</p> <p>2 MR. ANDERSON: Yes.</p> <p>3 BY MR. ANDERSON:</p> <p>4 Q. You sent this email to Mr. Livadas on 5 July 9th, 2013?</p> <p>6 A. Correct.</p> <p>7 Q. Okay. And it looks like in the attachments 8 there's a POATOM.PDF and a Purchase and Sale PDF, 9 correct?</p> <p>10 A. Correct.</p> <p>11 Q. And you indicate to Mr. Livadas the 12 attached notarized copies.</p> <p>13 A. Correct.</p> <p>14 Q. Okay. And if you look at the documents 15 that are attached to that, please, is that 16 Mr. Skarpelos' notarized signature on each of those?</p> <p>17 A. On the POA it is.</p> <p>18 Q. POA is the power of attorney?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And how about on the Purchase and 21 Sale Agreement?</p> <p>22 A. Correct.</p> <p>23 Q. There's been discussion in this case about 24 the notary that was used to notarize these documents</p>	<p style="text-align: right;">Page 281</p> <p>1 versus notaries that -- other notaries that are 2 available.</p> <p>3 What's your understanding of the notary 4 that was used to stamp these documents?</p> <p>5 MR. NORK: Objection, lack of foundation.</p> <p>6 MR. ANDERSON: I'll withdraw that question.</p> <p>7 THE COURT: Okay. Next question.</p> <p>8 BY MR. ANDERSON:</p> <p>9 Q. Do you have an understanding of what this 10 notary stamp is?</p> <p>11 A. I do.</p> <p>12 Q. Okay. And what is that understanding?</p> <p>13 A. It's called an "gnisio ypografis" in Greek. 14 The loose translation is original signature. You go 15 to a kiosk, a government kiosk, and show your ID and 16 sign the document in front of them.</p> <p>17 THE COURT: Can you spell or say what it is 18 in Greek.</p> <p>19 THE WITNESS: Can I spell? Gnisio? 20 G-n-i-s-i-o. then Y-p-o-g-r-a-f-i-s.</p> <p>21 THE COURT: Okay, thank you. I know it 22 won't look right, but at least we know how it's 23 spelled. It's an indication that that's an original 24 signature and you go to a kiosk somewhere in Greece</p>

<p style="text-align: right;">Page 282</p> <p>1 and they just -- you show your ID, you sign 2 something and they stamp it. 3 THE WITNESS: Correct, your Honor. 4 BY MR. ANDERSON: 5 Q. Do you have an understanding that there are 6 sort of higher levels of notarized signatures that 7 are used sometimes? 8 A. I do. 9 Q. What is that understanding? 10 A. As they are here in the United States, they 11 are available in Greece as well, if you sign a piece 12 of paper authenticating with a notary that actually 13 has a license or an attorney that has license to be 14 a notary as well. You either verify your passport, 15 the true likeliness of it, or that this is the true 16 and accurate signature of Tom Skarpelos sitting here 17 before me, et cetera, et cetera. 18 Q. Okay. So, there's a little more scrutiny 19 involved in that process? 20 A. Yes. 21 Q. And that's not one of these things on 22 Exhibit 33? 23 A. No. 24 Q. Okay. Would you look back at Exhibit 25,</p>	<p style="text-align: right;">Page 283</p> <p>1 please. Is that an email that you sent to Mr. 2 Livadas on June 24th, 2013? 3 A. It appears to be. 4 Q. Okay. And it looks like Mr. Livadas asked 5 you for blank ones, correct? 6 A. Yes. 7 Q. You sent him something? 8 A. I did. 9 Q. Okay. Would you look at the attachments to 10 that. What is the first attachment? 11 A. POA.PDF. 12 Q. Okay. And did you draft this document? 13 A. No, I did not. 14 Q. How did you come about obtaining it? 15 A. It was either through searching the 16 internet or through Nick Boutsalis. 17 Q. The gentleman we spoke about earlier? 18 A. Yes. He was helping me find documentation. 19 Q. Okay. So, you didn't draft this document. 20 How about the next document in Exhibit 25? 21 A. The same for this document as well. 22 Q. Okay. You didn't draft this. 23 A. No. 24 Q. You believe Mr. Boutsalis gave it to you?</p>
<p style="text-align: right;">Page 284</p> <p>1 A. I do believe he did. 2 Q. Okay. Getting back to Exhibit 33, when you 3 sent the notarized copies to Mr. Livadas, when you 4 sent this email did Mr. -- or at any time during 5 this discussion did Mr. Livadas tell you that the 6 power of attorney was for a transaction other than 7 the one you guys were discussing? 8 A. No. 9 Q. After you sent these blank documents to Mr. 10 Livadas, when did you next hear about a possible 11 stock sale? 12 A. After I sent blank documents. 13 Q. Yes. Let me clarify. This July 9th, 14 2013, email that is Exhibit 33, you were sending 15 blank documents to Mr. Livadas, correct? 16 A. These were the sample notarized documents. 17 Q. Okay. And so you're sending him samples 18 and you testified your understanding was that he was 19 going to show them to a possible Chinese investor. 20 A. Correct. 21 Q. After you sent this email, do you recall 22 when you next heard from Mr. Livadas about the 23 possible stock sale you were discussing? 24 A. I don't believe I did.</p>	<p style="text-align: right;">Page 285</p> <p>1 Q. You can't recall anything? 2 A. No. 3 Q. Would you look at Exhibit 40, please. Have 4 you ever seen this email before the litigation? 5 A. During discovery. 6 Q. After the lawsuit? 7 A. Correct. 8 Q. Okay. If you look down at the bottom, 9 there's a statement, it looks like, from Mr. Livadas 10 wrote, "I haven't heard from him in a week. I had 11 everything's ready for," and it has a dollar symbol 12 -- "and Christopher to go ahead." Do you see that? 13 A. I do. 14 Q. This is on October 28th, 2013. 15 Do you have any understanding of what Mr. 16 Livadas meant by that statement? 17 A. It could be a variety of things. 18 Q. Well, I don't want you to speculate. Do 19 you have a specific understanding of what he was 20 talking about? 21 A. A specific one, no. 22 Q. Okay. Were you having any involvement with 23 Mr. Livadas at that point in time, October 2013? 24 A. I recently was traveling back from China,</p>

<p style="text-align: right;">Page 286</p> <p>1 so I was with him in China before. Maybe</p> <p>2 mid-October.</p> <p>3 Q. Okay. At what point -- so you were with</p> <p>4 him in mid-October in China?</p> <p>5 A. Yeah.</p> <p>6 Q. At that point in time did he say anything</p> <p>7 about a possible stock sale?</p> <p>8 A. No.</p> <p>9 Q. Did you ever ask him what happened?</p> <p>10 A. No.</p> <p>11 Q. Okay. Who is Christopher?</p> <p>12 A. Christopher Missling.</p> <p>13 THE COURT: What was the last name?</p> <p>14 THE WITNESS: Missling.</p> <p>15 BY MR. ANDERSON:</p> <p>16 Q. And who is he?</p> <p>17 A. CEO of Anavex.</p> <p>18 Q. Does that refresh your recollection of what</p> <p>19 he might be talking about?</p> <p>20 A. Christopher's name and the money sign</p> <p>21 beside it, maybe he was financing the company, he</p> <p>22 wanted to finance the company. It's not my email</p> <p>23 exchange so I'm not -- I don't want to speculate.</p> <p>24 Q. The answer is you don't know.</p>	<p style="text-align: right;">Page 287</p> <p>1 A. No.</p> <p>2 Q. But it sounds like from this email that Mr.</p> <p>3 Livadas was trying to get in touch with you.</p> <p>4 A. Yes.</p> <p>5 Q. Okay. You had just seen him in China?</p> <p>6 A. I did.</p> <p>7 Q. Do you recall him ever contacting you after</p> <p>8 this email or about the time of this email to follow</p> <p>9 up on whatever is being discussed?</p> <p>10 A. With regards to what?</p> <p>11 Q. Anything -- well, strike that.</p> <p>12 As I understood you earlier, after you sent</p> <p>13 him the example power of attorney and Purchase and</p> <p>14 Sale Agreement, you didn't hear from him again</p> <p>15 specifically regarding the proposed sale of</p> <p>16 Mr. Skarpelos' stock.</p> <p>17 A. No.</p> <p>18 Q. Okay. During your discussions with Mr.</p> <p>19 Livadas in June and July regarding the possible sale</p> <p>20 of proposed stock, was Weiser Asset Management ever</p> <p>21 mentioned?</p> <p>22 A. Never.</p> <p>23 Q. Do you recall if anybody from Weiser Asset</p> <p>24 Management was included in any of the emails that</p>
<p style="text-align: right;">Page 288</p> <p>1 discussed the issue?</p> <p>2 A. Was never included.</p> <p>3 Q. Okay. How about Weiser Bahamas Limited?</p> <p>4 A. Never.</p> <p>5 Q. Okay. Have you ever heard of Weiser</p> <p>6 Capital?</p> <p>7 A. No, not to my recollection.</p> <p>8 Q. Okay. Prior to the lawsuit.</p> <p>9 A. Prior to the lawsuit, no.</p> <p>10 Q. Okay. Did Mr. Skarpelos ever indicate to</p> <p>11 you that he wanted to sell his stock to Weiser Asset</p> <p>12 Management?</p> <p>13 A. Never.</p> <p>14 Q. Okay. Did Mr. Skarpelos ever say that he</p> <p>15 wanted to sell his stock to Weiser Bahamas Limited?</p> <p>16 A. Never.</p> <p>17 Q. Did Mr. Skarpelos ever say or tell you that</p> <p>18 he wanted to sell his stock to Weiser Capital?</p> <p>19 A. Never.</p> <p>20 Q. Okay. Would you look at Exhibit 30,</p> <p>21 please. I'd like you to just kind of leaf through</p> <p>22 the exhibit quickly and then I'll ask you a</p> <p>23 question.</p> <p>24 (Witness reviewing document.)</p>	<p style="text-align: right;">Page 289</p> <p>1 BY MR. ANDERSON:</p> <p>2 Q. When was the first time you saw this</p> <p>3 document in its completed form as it is in Exhibit</p> <p>4 30?</p> <p>5 A. During discovery.</p> <p>6 Q. Okay. After the commencement of this</p> <p>7 lawsuit?</p> <p>8 A. Correct.</p> <p>9 Q. What was your reaction?</p> <p>10 A. I can't use that language in the court.</p> <p>11 Q. You were surprised?</p> <p>12 A. Very much so.</p> <p>13 Q. Okay. And on the front of this document it</p> <p>14 says that the agreement is entered into among -- it</p> <p>15 says Weiser LTD is the buyer. Do you see that?</p> <p>16 A. Correct.</p> <p>17 Q. Okay. You'd never heard that name prior to</p> <p>18 this lawsuit?</p> <p>19 A. No.</p> <p>20 Q. Okay. And if you look down below on the</p> <p>21 closing date, it states "September 30th, 2013."</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. Had you ever discussed that date</p>

<p style="text-align: right;">Page 290</p> <p>1 with Mr. Livadas?</p> <p>2 A. Never.</p> <p>3 Q. Okay. Had you ever discussed any closing</p> <p>4 date with Mr. Livadas?</p> <p>5 A. Never.</p> <p>6 Q. And to your knowledge this agreement wasn't</p> <p>7 entered into -- strike that.</p> <p>8 Would you look at Exhibit 35, please. When</p> <p>9 was the first time you saw this document in its</p> <p>10 completed form?</p> <p>11 A. After litigation.</p> <p>12 Q. Same reaction?</p> <p>13 A. Correct.</p> <p>14 Q. Now --</p> <p>15 THE COURT: What exhibit again?</p> <p>16 MR. ANDERSON: Exhibit 35, your Honor.</p> <p>17 BY MR. ANDERSON:</p> <p>18 Q. Now, was it your understanding when you</p> <p>19 sent these documents to Mr. Livadas that the deal</p> <p>20 was close to being finalized?</p> <p>21 A. My understanding that Christos had found a</p> <p>22 purchaser of the stock. Whether it was going to be</p> <p>23 finalized or not was not at my discretion. I</p> <p>24 couldn't guesstimate if it was gonna be finalized or</p>	<p style="text-align: right;">Page 291</p> <p>1 go through. My inclination at that time was that he</p> <p>2 did have a buyer ready.</p> <p>3 Q. Okay. And Mr. Skarpelos was willing to</p> <p>4 sell for \$250,000 the 3.13 million shares, roughly?</p> <p>5 A. My understanding was yes.</p> <p>6 Q. Okay. But your understanding also was that</p> <p>7 it was important for him to find the right buyer.</p> <p>8 A. To find a buyer, yes.</p> <p>9 Q. I think you discussed earlier it had to be</p> <p>10 the right kind of buyer.</p> <p>11 A. An actual buyer must have existed in order</p> <p>12 for him to proceed.</p> <p>13 Q. Okay. Did you ever discuss with Mr.</p> <p>14 Livadas that California law should apply to a</p> <p>15 potential sale transaction?</p> <p>16 A. Never.</p> <p>17 Q. I think I asked you earlier in the context</p> <p>18 of your discussions with Mr. Livadas in June and</p> <p>19 July about an April 2nd, 2013, transaction. I just</p> <p>20 want to be clear. You'd never heard of that until</p> <p>21 this lawsuit started, correct?</p> <p>22 A. Of that number of a transaction that</p> <p>23 happened in April?</p> <p>24 Q. Correct.</p>
<p style="text-align: right;">Page 292</p> <p>1 A. Never.</p> <p>2 Q. Did you ever receive any money from W.A.M.</p> <p>3 into any of your accounts?</p> <p>4 A. Never.</p> <p>5 Q. Okay. And just to clarify, you never</p> <p>6 received any money from Tom's W.A.M. account into</p> <p>7 any of your accounts?</p> <p>8 A. Never.</p> <p>9 Q. Okay. To your knowledge Tom didn't have a</p> <p>10 W.A.M. account?</p> <p>11 A. Correct.</p> <p>12 Q. What is Vermont?</p> <p>13 A. It's a broker.</p> <p>14 Q. Okay. And we talked about that earlier.</p> <p>15 They're in Panama?</p> <p>16 A. Correct.</p> <p>17 Q. Were in Panama.</p> <p>18 Do you know whether -- strike that. Did</p> <p>19 you ever give Mr. Skarpelos any of the money --</p> <p>20 strike that.</p> <p>21 Did you ever give Mr. Skarpelos any money?</p> <p>22 A. Period?</p> <p>23 Q. Period.</p> <p>24 A. \$50.</p>	<p style="text-align: right;">Page 293</p> <p>1 Q. Okay. I'm talking about denominations of</p> <p>2 10,000 euros, 15,000 euros, 20,000 euros.</p> <p>3 A. No.</p> <p>4 THE COURT: That's significantly different</p> <p>5 than "any." The day's getting kinda long. We're at</p> <p>6 4:15.</p> <p>7 MR. ANDERSON: I apologize, your Honor.</p> <p>8 BY MR. ANDERSON:</p> <p>9 Q. I'll clarify. Any monetary amount of</p> <p>10 substantial magnitude?</p> <p>11 A. No.</p> <p>12 Q. Okay. And let's look at Exhibit 44 which</p> <p>13 has been admitted into evidence.</p> <p>14 You've seen this document before.</p> <p>15 A. During litigation?</p> <p>16 Q. Yes. Have you ever seen it prior to</p> <p>17 litigation?</p> <p>18 A. Never.</p> <p>19 Q. Okay. There's a number of transactions</p> <p>20 listed on here including the April 2nd transaction</p> <p>21 we talked about. If you just glance down and look</p> <p>22 at those amounts there, Mr. Livadas had suggested</p> <p>23 that somehow these amounts went to Tom Skarpelos</p> <p>24 through you somehow. Is that accurate?</p>

<p style="text-align: right;">Page 294</p> <p>1 A. No.</p> <p>2 Q. Do you have any explanation for these</p> <p>3 transactions?</p> <p>4 A. My transactions can't show up on somebody</p> <p>5 else's bank account.</p> <p>6 Q. And do you have an explanation why Weiser</p> <p>7 Asset Management might have these transactions</p> <p>8 listed?</p> <p>9 A. I have not idea. To my knowledge it was</p> <p>10 never in the account of W.A.M.</p> <p>11 Q. Did you have an account at Verdmont?</p> <p>12 A. I did.</p> <p>13 Q. Okay. And did anything from Weiser Asset</p> <p>14 Management ever come to your Verdmont account?</p> <p>15 A. Never.</p> <p>16 Q. Do you know how Mr. Livadas would have the</p> <p>17 ability to execute a transfer between Verdmont Bank</p> <p>18 and any -- I'm sorry.</p> <p>19 Do you know how Mr. Livadas would have the</p> <p>20 ability to direct a transfer from a Verdmont account</p> <p>21 to anywhere else?</p> <p>22 A. From a Verdmont account to anywhere else?</p> <p>23 Q. Yes.</p> <p>24 A. Your question is very vague. Mr. Livadas</p>	<p style="text-align: right;">Page 295</p> <p>1 might have twenty Verdmont accounts in his name or</p> <p>2 in his company's name.</p> <p>3 Q. Let's talk about your account, then.</p> <p>4 A. With my account --</p> <p>5 Q. Yes.</p> <p>6 A. -- can he direct what?</p> <p>7 Q. Can he direct that money go into your</p> <p>8 Verdmont account.</p> <p>9 A. Direct money -- can he send money to an</p> <p>10 account?</p> <p>11 Q. Yes.</p> <p>12 A. He can send money to any account in the</p> <p>13 world.</p> <p>14 Q. Okay. But you just testified that you</p> <p>15 never received anything from W.A.M. in your</p> <p>16 Verdmont, correct?</p> <p>17 A. Correct. You have to be specific. If it's</p> <p>18 an individual, if it's an asset management company.</p> <p>19 Q. I apologize, Mr. Pedafronimos. I am trying</p> <p>20 to be as clear as possible but I'm not very</p> <p>21 experienced in the financial world.</p> <p>22 So, the bottom line is that W.A.M. never</p> <p>23 transferred anything into your Verdmont account.</p> <p>24 A. No.</p>
<p style="text-align: right;">Page 296</p> <p>1 Q. And did any -- do you know if W.A.M. had an</p> <p>2 account at Verdmont as well?</p> <p>3 A. Yes. 2014.</p> <p>4 Q. Okay. Did anything -- was anything</p> <p>5 transferred from W.A.M.'s Verdmont account to your</p> <p>6 account ever?</p> <p>7 A. No, never.</p> <p>8 Q. Okay. Now, let's look at Exhibit 18,</p> <p>9 please.</p> <p>10 MR. ANDERSON: Exhibit 18.</p> <p>11 THE COURT: It's not admitted.</p> <p>12 MR. NORK: I will stipulate.</p> <p>13 MR. ANDERSON: I will not offer it.</p> <p>14 BY MR. ANDERSON:</p> <p>15 Q. Look at Exhibit 59, please, and in</p> <p>16 particular the second to last page.</p> <p>17 A. Okay.</p> <p>18 Q. Do you recall whether you'd sent Mr.</p> <p>19 Livadas an email on or about April 26th, 2011, that</p> <p>20 had a subject of "Quadruple bypass"?</p> <p>21 THE COURT: I believe it's 2013. 11:21:32</p> <p>22 hours.</p> <p>23 MR. ANDERSON: I apologize, your Honor. I</p> <p>24 was looking at the 11th.</p>	<p style="text-align: right;">Page 297</p> <p>1 BY MR. ANDERSON:</p> <p>2 Q. The correct date is April 26th, 2013.</p> <p>3 A. I do remember sending him information that</p> <p>4 Tom had finally had a quadruple bypass, but I don't</p> <p>5 remember sending this email as a subject and banking</p> <p>6 details below.</p> <p>7 Q. Okay. So, you don't recall whether you</p> <p>8 sent this or not?</p> <p>9 A. No. It didn't turn up when I searched my</p> <p>10 documentation.</p> <p>11 Q. Okay. And anywhere in your email do you</p> <p>12 suggest that money should be transferred to Mr.</p> <p>13 Skarpelos?</p> <p>14 A. No.</p> <p>15 Q. Okay. If you look above there, there's a</p> <p>16 response from Christos to someone called "Rainbow."</p> <p>17 It looks like the subject line has added to it,</p> <p>18 "Transfer request, forward quadruple bypass."</p> <p>19 A. I see that.</p> <p>20 Q. Okay. Did you ever tell Mr. Livadas that</p> <p>21 you were directing that \$20,000 be transferred to</p> <p>22 Tom somehow?</p> <p>23 A. No, I did not.</p> <p>24 Q. Okay. And did you ever tell Mr. Livadas</p>

<p style="text-align: right;">Page 298</p> <p>1 that Mr. Skarpelos had had a heart attack?</p> <p>2 A. I believe I had sent him a picture as well.</p> <p>3 A heart attack, no. Surgery, yes. He ended up</p> <p>4 having a quadruple bypass.</p> <p>5 Q. So, as you sit here, do you have any</p> <p>6 understanding of why you would have sent an email</p> <p>7 saying, "Subject quadruple bypass," and then bank</p> <p>8 information for, it looks like, Nikolaos?</p> <p>9 A. No.</p> <p>10 Q. Okay. During the period of 2012 and 2013,</p> <p>11 did Mr. Skarpelos say anything to you about his</p> <p>12 ability to get in touch with people at W.A.M.?</p> <p>13 A. I don't recall.</p> <p>14 Q. Okay.</p> <p>15 A. When you refer to people and Weiser Asset</p> <p>16 Management, be specific. The officers, directors,</p> <p>17 registered people there, and Christos. I know</p> <p>18 they're one in the same but I would have</p> <p>19 communications with Christos, not Weiser Asset</p> <p>20 Management.</p> <p>21 Q. I'll clarify. Did Mr. Skarpelos complain</p> <p>22 to you during the years -- the year 2012 to say that</p> <p>23 he was having trouble getting ahold of Mr. Livadas?</p> <p>24 A. All the time. Everybody complained about</p>	<p style="text-align: right;">Page 299</p> <p>1 not being able to reach Christos. He was traveling</p> <p>2 all the time.</p> <p>3 Q. And during 2012 did Mr. Skarpelos express</p> <p>4 to you any concern about Weiser Asset Management?</p> <p>5 A. I don't think so.</p> <p>6 Q. Okay.</p> <p>7 MR. ANDERSON: No further questions, your</p> <p>8 Honor.</p> <p>9 THE COURT: One moment.</p> <p>10 Mr. Pedafronimos, you just said that Mr.</p> <p>11 Skarpelos had told you he was having difficulty</p> <p>12 getting in contact with Mr. Livadas.</p> <p>13 In what time frame?</p> <p>14 THE WITNESS: It's every time frame.</p> <p>15 Christos would travel all the time. Very difficult</p> <p>16 to find.</p> <p>17 THE COURT: So, he's a man of the world.</p> <p>18 THE WITNESS: Yes. He's an explorer.</p> <p>19 THE COURT: And I just want to make sure I</p> <p>20 understand your testimony correctly about this last</p> <p>21 issue that you were just discussing with Mr.</p> <p>22 Anderson.</p> <p>23 In looking at Exhibit 59 on page Bates</p> <p>24 stamp -- which are the lower numbers in the</p>
<p style="text-align: right;">Page 300</p> <p>1 right-hand corner -- Weiser 000321 regarding the</p> <p>2 April 26th, 2013, email at 11:21 a.m., you're saying</p> <p>3 you sent an email to Mr. Livadas at that time with</p> <p>4 the subject "Quadruple bypass."</p> <p>5 Your recollection is that it was a</p> <p>6 photograph of some sort and it was not this banking</p> <p>7 information that we see referenced here on the page.</p> <p>8 Is that correct?</p> <p>9 THE WITNESS: With Christos I would usually</p> <p>10 message him with a PIM, private instant message.</p> <p>11 And it's hard for me to believe that I sent him a</p> <p>12 subject of quadruple bypass and the banking</p> <p>13 information below.</p> <p>14 I did a records search on my computer. I</p> <p>15 couldn't find it. I can't authenticate it from this</p> <p>16 version or the other one that's provided in the</p> <p>17 exhibits.</p> <p>18 THE COURT: So, would it be, then, fair to</p> <p>19 say that your testimony is not that you didn't do</p> <p>20 it, it's that you don't recall doing it, and as you</p> <p>21 look at it, you don't have any familiarity with the</p> <p>22 banking information that's associated here?</p> <p>23 THE WITNESS: I remember sending a message</p> <p>24 with regards to the specifics of Tom's surgery that</p>	<p style="text-align: right;">Page 301</p> <p>1 he ended up having a quadruple bypass. I don't</p> <p>2 recall sending banking information with that</p> <p>3 message. And the subject line has been altered</p> <p>4 three or three four times here.</p> <p>5 THE COURT: Mr. Anderson, do you have any</p> <p>6 additional questions based on my questions?</p> <p>7 MR. ANDERSON: No, your Honor.</p> <p>8 THE COURT: Mr. Nork, do you anticipate</p> <p>9 your cross-examination being longer than</p> <p>10 approximately 15 minutes?</p> <p>11 MR. NORK: Yes, your Honor.</p> <p>12 THE COURT: Okay. Counsel,</p> <p>13 Mr. Pedafronimos -- I don't know why I always want</p> <p>14 to put an "N" instead of "M" in your name. My brain</p> <p>15 keeps trying to do that and I apologize for</p> <p>16 mispronouncing your name.</p> <p>17 I need you to return here at 8:30 a.m.</p> <p>18 tomorrow.</p> <p>19 Counsel, I've thought about our discussions</p> <p>20 last night regarding the remaining course of the</p> <p>21 trial and what I was going to say is that, if we</p> <p>22 were finishing today, I really didn't think there</p> <p>23 was any reason to come back on Friday. I don't want</p> <p>24 to delay anybody else longer than they have to be.</p>

<p style="text-align: right;">Page 302</p> <p>1 I would assume some people have to travel. If they 2 don't have to stay here for an additional day, we 3 wouldn't. What I thought would be is if we would do 4 closings in the morning and then I'd bring you back 5 in the afternoon tomorrow, on Thursday, and give you 6 the court's decision. I don't think I need all day 7 and all night.</p> <p>8 But now, I guess, we'll just be kind of in 9 a holding pattern and see how it goes. I have no 10 idea how long the cross-examination, the redirect 11 and re-cross will take. I'm in no way limiting the 12 amount of time, Mr. Nork, that you have for that 13 subject, so we'll just wait and see how we go 14 tomorrow.</p> <p>15 Anticipate doing your closing arguments 16 tomorrow. I'm guessing, then, that we will probably 17 conclude the testimony of the witnesses in the first 18 session that we have tomorrow morning.</p> <p>19 Do you think it will be longer?</p> <p>20 MR. NORK: That's a fair estimate, your 21 Honor.</p> <p>22 THE COURT: Probably about two hours left 23 of testimony total from both sides. And then we 24 might take a brief recess, maybe even up to a half</p>	<p style="text-align: right;">Page 303</p> <p>1 hour, so the parties can collect your thoughts and 2 come back after lunch to do closing arguments. I 3 just don't know. We are in a little bit of a 4 holding pattern because our schedule is shifting.</p> <p>5 Mr. Nork, what are your thoughts?</p> <p>6 MR. NORK: I think that's a good idea, your 7 Honor. My question is this: We're both plaintiffs. 8 Who goes first and who goes last?</p> <p>9 THE COURT: As I told the parties before -- 10 and I went and I looked -- the first answer and 11 counterclaim that was filed was by Mr. Skarpelos. 12 That was on May 23rd of 2016. Mr. Nork's was 13 filed May 24th of 2016. So, if I just went first in 14 time, I would go with Mr. Anderson being first and 15 last.</p> <p>16 However, I've given it some thought and I'm 17 going to change that analysis slightly for the 18 following reason: Mr. Skarpelos' lone cause of 19 action is for declaratory relief and so both parties 20 are plaintiffs under the declaratory relief cause of 21 action.</p> <p>22 The Weiser entities actually have three 23 causes of action, declaratory relief, a breach of 24 contract, and a breach of the implied covenant of</p>
<p style="text-align: right;">Page 304</p> <p>1 good faith and fair dealing, so you've got more 2 things that you have to prove and additional causes 3 of action.</p> <p>4 And for that reason I think that you're 5 more of a plaintiff. It's not that either side is 6 greater or lesser value. It's both sides are 7 claiming declaratory relief where both sides are 8 arguably the plaintiff trying to gain control of the 9 stock shares. But also the Weiser entities are 10 bringing additional causes of action under contract 11 theories.</p> <p>12 And so what I will do is this: I will 13 allow Mr. Nork to go first. I will allow Mr. 14 Anderson then to present his argument regarding the 15 declaratory relief action, and then because Mr. Nork 16 has an additional burden of proof, I will allow Mr. 17 Nork to have a rebuttal argument. But I'd like your 18 argument to focus only on the contract issues. 19 You'll get to make your big pitch on declaratory 20 relief because you're both plaintiffs but give me 21 your whole shot on declaratory relief in your 22 argument.</p> <p>23 I know as a former trial attorney sometimes 24 we hold back the good stuff because we want to make</p>	<p style="text-align: right;">Page 305</p> <p>1 that powerful, I'll give him the last-best-thought 2 argument. But because you're both plaintiffs and 3 the issues are well argued by the parties, I think 4 you can both give me an argument about why your 5 clients should prevail on the declaratory relief 6 action. And then, Mr. Nork, I'll give you an 7 opportunity to make a rebuttal argument simply 8 regarding the contract causes of action.</p> <p>9 Now, I don't know what your motion is going 10 to be because you had already indicated you might 11 want to make an argument, Mr. Anderson, about 12 possible NRCP 50.</p> <p>13 MR. ANDERSON: 52(c). 50, I think, applies 14 in jury trials and 52 applies in bench trials.</p> <p>15 THE COURT: So, if you make that argument, 16 it might be that we just have the declaratory relief 17 actions, and under those circumstances I'll hear 18 from both of you once. So, you're both just gonna 19 make -- let's assume for the sake of argument, Mr. 20 Anderson, that you make an argument to the court 21 that I find persuasive that there are no contract 22 claims and we're just talking about the declaratory 23 relief action that both the parties raised.</p> <p>24 I won't let one side get a final bite at</p>

<p style="text-align: right;">Page 306</p> <p>1 the apple. I'll just make it even, and under those 2 circumstances I think because Mr. Anderson was first 3 to the party, I'll let you decide if you want to go 4 first or second.</p> <p>5 MR. ANDERSON: On --</p> <p>6 THE COURT: Okay. We're all kinda getting 7 punchy. Let me make it more clear, and I apologize. 8 As I stated, if there are contract claims 9 remaining when we're doing closing arguments, Mr. 10 Nork will argue first. Mr. Anderson will argue 11 second. Both of you will give me your entire 12 argument regarding the declaratory relief actions. 13 And then I will give Mr. Nork, because he's 14 the plaintiff with the contract causes of action, 15 I'll give him the opportunity to make a rebuttal 16 argument regarding the contract issues alone. We 17 won't talk about declaratory relief anymore, just 18 contract issues. That's if everything remains, if 19 all three causes of action remain.</p> <p>20 If, however, Mr. Anderson makes a motion 21 and I find it persuasive that I strike the contract 22 causes of action and all we're talking about is 23 declaratory relief, Mr. Anderson will argue first 24 and, Mr. Nork, you'll argue second -- no, wait. I</p>	<p style="text-align: right;">Page 307</p> <p>1 said it the other way.</p> <p>2 MR. NORK: No, your Honor. I thought that 3 I understood that, if Mr. Anderson made a successful 4 Rule 52 motion, he would then have the choice to go 5 first or second.</p> <p>6 THE COURT: That's right and that's why I 7 -- you're exactly right, Mr. Nork. I apologize. 8 Mr. Anderson, assuming that we're only 9 talking about declaratory relief -- and now I'm 10 thinking ahead to Sunday when the Super Bowl is 11 going and the coin flip goes in the air and you have 12 prevailed, you win the coin flip and the referee 13 turns to you and says, Do you want to kick or 14 receive? And, gentlemen, you might not have idea 15 what I'm talking about, but it's an American 16 football reference, the prevailing party on the coin 17 flip gets to decide how the game starts.</p> <p>18 So, you are the first in time. You filed 19 your declaratory relief action one day before 20 Mr. Nork. I will allow you to tell me right now 21 would you like to make the first closing argument or 22 the second closing argument if all we're talking 23 about is declaratory relief?</p> <p>24 MR. ANDERSON: Your Honor, I'll answer that</p>
<p style="text-align: right;">Page 308</p> <p>1 in one second. I want to be clear that my motion 2 that I intend to make at the close of the case is 3 going to be on all three of their claims.</p> <p>4 So, it's not just going to be based on the 5 contract claims, and I don't know if the Court is 6 giving me a sneak preview about declaratory relief. 7 But I will make a Rule 50 motion on all three claims 8 so I don't want -- I'm sorry. I'll be making a Rule 9 52(c) motion on all three claims. I don't want 10 anyone to feel ambushed.</p> <p>11 So, assuming I lose on the declaratory 12 relief and all that's left -- lose my motion on 13 declaratory relief and all that's left and you rule 14 in my favor on the contract claims, if it's just 15 declaratory relief and you're not allowing a 16 rebuttal, I guess I would prefer to go second.</p> <p>17 THE COURT: All right. I assumed that was 18 what your answer would be. You always want the last 19 word. I'm not telling you, Mr. Anderson, not to 20 make you're Rule 52 motion regarding all three 21 causes of action. I would never suggest to either 22 party what motions you should or should not make 23 during the course of the trial. I don't want you to 24 infer from what I've said so far that I don't think</p>	<p style="text-align: right;">Page 309</p> <p>1 you should make that motion.</p> <p>2 I'll wait and hear the motion. Your 3 thoughts on it, as you expressed them a moment ago, 4 are probably accurate. Just as I sit here right 5 now, I'm not saying I will grant the motion 6 regarding the contract causes of action. I'm even 7 less sure about granting it regarding the Weiser 8 entities' declaratory relief cause of action.</p> <p>9 MR. ANDERSON: I understand, your Honor.</p> <p>10 THE COURT: If we're thinking about pushing 11 a rock uphill, it would be harder to push the 12 declaratory relief rock up the hill than it would to 13 push the contract cause of action rock up the hill 14 and they both might be really hard.</p> <p>15 I'm not telling you I'm granting anything 16 or I have a predisposition towards anything. You've 17 just indicated you want to make that argument. I'll 18 hear the entire argument when you make it tomorrow.</p> <p>19 MR. ANDERSON: Thank you, your Honor. I 20 want to make clear to the Court and Counsel that I 21 was intending to do all three.</p> <p>22 THE COURT: I appreciate that and that 23 clarifies it. The reason I had just assumed it was 24 about the contract causes of action was, because</p>

<p style="text-align: right;">Page 310</p> <p>1 when you raised the issue initially, if memory 2 serves me correctly, you were talking about the 3 contract causes of action.</p> <p>4 It doesn't mean you can't make additional 5 arguments. But it was around the time -- I think it 6 was on Tuesday, yesterday morning, when we came in 7 in the morning. We had concluded the day talking 8 about the exhibit with the July 12th date on it 9 and I got the impression you were just more talking 10 about the contract issues as opposed to the entirety 11 of the case.</p> <p>12 MR. ANDERSON: Understood, your Honor.</p> <p>13 THE COURT: So, if we're just talking 14 declaratory relief, Mr. Nork, you're going first 15 and, Mr. Anderson, you will go second. If we're 16 talking about the whole ball of wax, then Mr. Nork 17 is first, Mr. Anderson is second, Mr. Nork gets an 18 argument about the contract issues in rebuttal and 19 the contract issues alone in rebuttal.</p> <p>20 Everybody on the same page?</p> <p>21 MR. ANDERSON: Yes, your Honor.</p> <p>22 MR. NORK: Yes, your Honor.</p> <p>23 THE COURT: Okay. Hopefully, you guys can 24 remind me what I said once it comes up tomorrow.</p>	<p style="text-align: right;">Page 311</p> <p>1 Thank you, everybody, for your time today. I will 2 see everybody at 8:30 in the morning.</p> <p>3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>
<p style="text-align: right;">Page 312</p> <p>1 STATE OF NEVADA) 2) SS. 3 COUNTY OF WASHOE)</p> <p>4 I, CHRISTINA MARIE AMUNDSON, official reporter 5 of the Second Judicial District Court of the State 6 of Nevada, in and for the County of Washoe, do 7 hereby certify:</p> <p>8 That as such reporter, I was present in 9 Department No. 10 of the above court on January 30, 10 2019, at the hour of 8:30 a.m. of said day, and I 11 then and there took verbatim stenotype notes of the 12 proceedings had and testimony given therein in the 13 case of NATCO, Plaintiff, v. Weiser Asset 14 Management, Defendant, Case CV15-02259.</p> <p>15 That the foregoing transcript is a true and 16 correct transcript of my said stenotype notes so 17 taken as aforesaid, and is a true and correct 18 statement of the proceedings had and testimony given 19 in the above-entitled action to the best of my 20 knowledge, skill and ability.</p> <p>21 DATED: At Reno, Nevada, on the 23rd day of March 22 2020.</p> <p>23 /S/ Christina Marie Amundson, CCR #641</p> <p>24 _____ Christina Marie Amundson, CCR #641</p>	<p style="text-align: right;">Page 313</p> <p>1 HEALTH INFORMATION PRIVACY & SECURITY: CAUTIONARY NOTICE</p> <p>2 Litigation Services is committed to compliance with applicable federal 3 and state laws and regulations ("Privacy Laws") governing the 4 protection and security of patient health information. Notice is 5 hereby given to all parties that transcripts of depositions and legal 6 proceedings, and transcript exhibits, may contain patient health 7 information that is protected from unauthorized access, use and 8 disclosure by Privacy Laws. Litigation Services requires that access, 9 maintenance, use, and disclosure (including but not limited to 10 electronic database maintenance and access, storage, distribution/ 11 dissemination and communication) of transcripts/exhibits containing 12 patient information be performed in compliance with Privacy Laws.</p> <p>13 No transcript or exhibit containing protected patient health 14 information may be further disclosed except as permitted by Privacy 15 Laws. Litigation Services expects that all parties, parties' 16 attorneys, and their HIPAA Business Associates and Subcontractors will 17 make every reasonable effort to protect and secure patient health 18 information, and to comply with applicable Privacy Law mandates, 19 including but not limited to restrictions on access, storage, use, and 20 disclosure (sharing) of transcripts and transcript exhibits, and 21 applying "minimum necessary" standards where appropriate. It is 22 recommended that your office review its policies regarding sharing of 23 transcripts and exhibits - including access, storage, use, and 24 disclosure - for compliance with Privacy Laws.</p> <p>25 © All Rights Reserved. Litigation Services (rev. 6/1/2019)</p>

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