

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

RNS SERVICING, INC., an)
Illinois Limited)
Liability Company,)

Plaintiff,)

vs.) No. 1:17-CV-108

SPIRIT CONSTRUCTION)
SERVICES, INC., a)
Delaware Corporation,)
STEVEN CAN DEN HEUVEL, a)
citizen of the State of)
Wisconsin, ST PAPER, LLC,)
a Delaware Limited)
Liability Company, and)
SHARAD TAK, a citizen of)
the State of Maryland,)

Defendants.)

The deposition of STEVEN VAN DEN
HEUVEL, called by the Plaintiff for examination,
taken pursuant to notice and pursuant to the Federal
Rules of Civil Procedure for the United States
District Courts pertaining to the taking of
depositions, taken before Meagan M. Cahill, Certified
Shorthand Reporter, at 120 South Riverside Plaza,
Suite 2200, Chicago, Illinois, commencing at
8:30 a.m. on the 18th day of December, 2018.

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES:</p> <p>2 JOHNSON & BELL, LTD.</p> <p>3 MR. BRIAN LANGS</p> <p>4 33 West Monroe</p> <p>5 Suite 2700</p> <p>6 Chicago, Illinois 60603</p> <p>7 Phone: (312) 372-0770</p> <p>8 E-mail: langsb@jbltd.com</p> <p>9 On behalf of the Plaintiff;</p> <p>10 HUSCH BLACKWELL LLP</p> <p>11 MR. ROBERT ROMASHKO</p> <p>12 MR. PATRICK COFFEY</p> <p>13 120 South Riverside Plaza</p> <p>14 Suite 2200</p> <p>15 Chicago, Illinois 60606</p> <p>16 Phone: 312.655.1500</p> <p>17 E-mail: robert.romashko@huschblackwell.com</p> <p>18 On behalf of the Defendants.</p> <p>19 GODFREY KAHN SC</p> <p>20 MR. BRIAN C. SPAHN</p> <p>21 833 East Michigan Street</p> <p>22 Suite 1800</p> <p>23 Milwaukee, Wisconsin 53202</p> <p>24 Phone: 414.273.3500</p> <p> E-mail: bspahn@gklaw.com</p> <p> On behalf of Defendant, Sharad Tak.</p> <p>ALSO PRESENT:</p> <p>Mr. Steven Csar</p> <p>Mr. Marc Langs</p> <p>* * * * *</p>	<p style="text-align: right;">Page 4</p> <p>1 MR. LANGS: Let the record reflect this is</p> <p>2 the discovery deposition of Steve Van Den Heuvel</p> <p>3 taken pursuant to notice and by agreement of the</p> <p>4 parties. The deposition will be taken pursuant to</p> <p>5 the Federal Rules of Civil Procedure and any</p> <p>6 applicable local rules in the Northern District.</p> <p>7 Present here, I think we already</p> <p>8 have that done.</p> <p>9 EXAMINATION</p> <p>10 BY MR. LANGS:</p> <p>11 Q. So, Mr. Van Den Heuvel -- can I call you</p> <p>12 Steve? Is that all right?</p> <p>13 A. Yes.</p> <p>14 Q. My client, RNS Services, is here based on</p> <p>15 a lawsuit where they bought certain contractual</p> <p>16 rights that belonged to IFC Corporation. Does that</p> <p>17 make sense? Are you familiar with the complaint in</p> <p>18 this lawsuit?</p> <p>19 A. That is what I'm -- was told, yes.</p> <p>20 Q. Have you ever taken a deposition before</p> <p>21 or been deposed?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. Just a couple of reminders. We're</p> <p>24 on your time. If you need to take a break at any</p>
<p style="text-align: right;">Page 3</p> <p>1 I N D E X</p> <p>2 WITNESS PAGE</p> <p>3 STEVEN VAN DEN HEUVEL</p> <p>4</p> <p>5 Examination by Mr. Langs..... 4</p> <p>6 Examination by Mr. Spahn.....150</p> <p>7 Examination by Mr. Romashko.....165</p> <p>8 Further Examination by Mr. Langs.....166</p> <p>9</p> <p>10</p> <p>11 E X H I B I T S</p> <p>12 SVDH DEPOSITION EXHIBIT PAGE</p> <p>13</p> <p>14 Exhibit No. 1..... 30</p> <p>15 Exhibit No. 2..... 61</p> <p>16 Exhibit Nos. 3 through 5..... 65</p> <p>17 Exhibit No. 6 66</p> <p>18 Exhibit No. 7 75</p> <p>19 Exhibit No. 8..... 83</p> <p>20 Exhibit No. 9..... 120</p> <p>21 Exhibit No. 10..... 130</p> <p>22 Exhibit No. 11..... 153</p> <p>23 Exhibit No. 12..... 157</p> <p>24</p>	<p style="text-align: right;">Page 5</p> <p>1 time, that's fine, as long as there's no question</p> <p>2 pending. If there's a question pending, I'll ask you</p> <p>3 to answer the question first and then we can take a</p> <p>4 break. Does that sound all right?</p> <p>5 A. Yes.</p> <p>6 Q. When you're answering questions, if you</p> <p>7 could use yes or no instead of uh-huh and shoulder</p> <p>8 shrugs so that she can take down what you're saying,</p> <p>9 she'd appreciate it. We'd all appreciate it.</p> <p>10 And you understand that you're under</p> <p>11 oath?</p> <p>12 A. Yes.</p> <p>13 Q. Oh, one more rule. If you answer a</p> <p>14 question, I'll assume that you understood the</p> <p>15 question. If you don't understand the question, just</p> <p>16 let me know and I'll rephrase the question; is that</p> <p>17 fair as well?</p> <p>18 A. Yes.</p> <p>19 Q. Any questions for me before we get</p> <p>20 started?</p> <p>21 A. No.</p> <p>22 Q. Are you under any medications that might</p> <p>23 make you feel drowsy or affect your memory today?</p> <p>24 A. No.</p>

<p style="text-align: right;">Page 6</p> <p>1 Q. And I don't mean any disrespect, but I</p> <p>2 ask everybody I depose this. Have you ever been</p> <p>3 convicted of a felony?</p> <p>4 A. No.</p> <p>5 Q. How about a crime of dishonesty?</p> <p>6 A. No.</p> <p>7 Q. What's your date of birth?</p> <p>8 A. 8/15/1959.</p> <p>9 Q. And what's your current address?</p> <p>10 A. 2121 Fox Point Court, De Pere, D-E,</p> <p>11 P-E-R-E, Wisconsin.</p> <p>12 Q. All right. And I don't want you to tell</p> <p>13 me anything about any conversations you had with your</p> <p>14 counsel. But in general, did you do anything to</p> <p>15 prepare for this deposition?</p> <p>16 A. I met with my counsel.</p> <p>17 Q. Did you review any documents?</p> <p>18 A. Yes.</p> <p>19 Q. Which documents did you review in</p> <p>20 preparation for this deposition?</p> <p>21 A. Portions of the four contracts and the</p> <p>22 two sheets that I signed.</p> <p>23 Q. And when you say, "the four contracts,"</p> <p>24 are you talking about the four EPC contracts that are</p>	<p style="text-align: right;">Page 8</p> <p>1 Q. Until two to three years ago?</p> <p>2 A. Yeah, two to three years ago.</p> <p>3 Q. And how about prior to 2002, where were</p> <p>4 you employed?</p> <p>5 A. I was at Spirit Construction.</p> <p>6 Q. Did you have a different title then?</p> <p>7 A. I don't know what I was --</p> <p>8 Q. But you weren't --</p> <p>9 A. Basically ran the -- ran the company.</p> <p>10 Q. Ran the company?</p> <p>11 A. Yeah.</p> <p>12 Q. Could have been president, CEO, something</p> <p>13 like that?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. When was the last time you weren't</p> <p>16 the president, CEO, or the person that was running</p> <p>17 the company at Spirit Construction besides the last</p> <p>18 two or three years? So before that, you said you</p> <p>19 weren't the president. But what job did you have</p> <p>20 before that? Let me rephrase the question.</p> <p>21 You said you were president from</p> <p>22 2002 until about two or three years ago; is that</p> <p>23 correct?</p> <p>24 A. Yes.</p>
<p style="text-align: right;">Page 7</p> <p>1 at issue in this case?</p> <p>2 A. Yes.</p> <p>3 Q. Did you review the complaint at all?</p> <p>4 A. No.</p> <p>5 Q. Okay. I want to go just briefly through</p> <p>6 your work experience. Where are you currently</p> <p>7 employed?</p> <p>8 A. Spirit Construction Services.</p> <p>9 Q. Are you employed anywhere else as well,</p> <p>10 or is that --</p> <p>11 A. No. That is the only place.</p> <p>12 Q. And what is your title there?</p> <p>13 A. Vice president of finance.</p> <p>14 Q. How long have you been the vice president</p> <p>15 of finance at Spirit Construction Services?</p> <p>16 A. Two or three years.</p> <p>17 Q. And before that, were you at Spirit</p> <p>18 Construction Services or another company?</p> <p>19 A. I was at Spirit Construction.</p> <p>20 Q. What was your title then?</p> <p>21 A. President.</p> <p>22 Q. Okay. And how long were you a president</p> <p>23 of Spirit Construction Services during that term?</p> <p>24 A. From 2002 until --</p>	<p style="text-align: right;">Page 9</p> <p>1 Q. Before that, you had a different title,</p> <p>2 but you were still basically running things at Spirit</p> <p>3 Construction; is that correct?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. How long were you in that role?</p> <p>6 A. From 1995 -- 1995, yes, until...</p> <p>7 Q. And then before 1995, were you still at</p> <p>8 Spirit Construction or somewhere else?</p> <p>9 A. I was at Vos Electric.</p> <p>10 Q. Okay. What was your title there?</p> <p>11 A. I can't remember.</p> <p>12 Q. Were you running things? Were you the</p> <p>13 president?</p> <p>14 A. Yes.</p> <p>15 Q. I think that's good enough for now.</p> <p>16 What's your highest level of</p> <p>17 education?</p> <p>18 A. 12th grade.</p> <p>19 Q. Do you have any sort of work</p> <p>20 certifications or anything of that nature that</p> <p>21 wouldn't be through school?</p> <p>22 A. No.</p> <p>23 Q. So you're currently sharing ownership</p> <p>24 interest in Spirit Construction?</p>

<p style="text-align: right;">Page 10</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And what percentage ownership do</p> <p>3 you have at Spirit Construction?</p> <p>4 A. Spirit Construction is owned by a holding</p> <p>5 company. I own the holding company, seven percent of</p> <p>6 the holding company.</p> <p>7 Q. What's the holding company called?</p> <p>8 A. VHC.</p> <p>9 Q. It's VHC, Inc., correct?</p> <p>10 A. Yes.</p> <p>11 Q. And does your brother, Ron Van Den</p> <p>12 Heuvel, have any ownership interest in VHC currently?</p> <p>13 A. His stocks are frozen.</p> <p>14 Q. And what about any other siblings? Do</p> <p>15 any of your other siblings have any ownership</p> <p>16 interest in the VHC Holdings?</p> <p>17 A. Yes.</p> <p>18 Q. Which ones?</p> <p>19 A. My brother Dave Van Den Heuvel, my</p> <p>20 brother Ray Van Den Heuvel, my brother Tim Van Den</p> <p>21 Heuvel, my brother-in-law Craig Kassner, my</p> <p>22 brother-in-law Butch Piantec (phonetic). Those are</p> <p>23 the family members. And then I have nieces and</p> <p>24 nephews that have minor -- lesser shares.</p>	<p style="text-align: right;">Page 12</p> <p>1 those companies?</p> <p>2 A. I had PCDI stuff, Less than one percent.</p> <p>3 Q. Do you currently have any ownership</p> <p>4 interest in any company that Ron Van Den Heuvel also</p> <p>5 has ownership interest in besides Spirit</p> <p>6 Construction?</p> <p>7 A. No.</p> <p>8 Q. Are you aware of what the status is with</p> <p>9 your brother Ron's criminal proceedings?</p> <p>10 A. I don't know the status, no. I do know</p> <p>11 that he is in --</p> <p>12 Q. Has there been a trial in those</p> <p>13 proceedings that you know of, if you know?</p> <p>14 A. No.</p> <p>15 Q. No, there has not been a trial?</p> <p>16 A. No, there has not been a trial, to my</p> <p>17 knowledge.</p> <p>18 Q. Do you know what he's been charged with</p> <p>19 or indicted with in those proceedings?</p> <p>20 A. No.</p> <p>21 Q. Were you deposed in those proceedings?</p> <p>22 A. No.</p> <p>23 Q. Do you know if you've been subpoenaed to</p> <p>24 testify at his trial?</p>
<p style="text-align: right;">Page 11</p> <p>1 Q. Okay. What percentage of ownership</p> <p>2 interest in VHC did Ron own that's frozen, if you</p> <p>3 know?</p> <p>4 A. I can't answer that.</p> <p>5 Q. All right. You can't answer it or you</p> <p>6 don't know?</p> <p>7 A. I don't know.</p> <p>8 Q. Okay. Are you familiar with the</p> <p>9 companies Partner Development Corporation and</p> <p>10 Tissue -- TPTC that was part of --</p> <p>11 MR. ROMASHKO: Objection, form.</p> <p>12 BY MR. LANGS:</p> <p>13 Q. Are you familiar with what I'm talking</p> <p>14 about, TP- -- I can look up the name of the company.</p> <p>15 A. I know the initials.</p> <p>16 Q. Do you have any ownership interest in</p> <p>17 either of those two companies?</p> <p>18 A. No.</p> <p>19 Q. Have you ever?</p> <p>20 A. Yes.</p> <p>21 Q. When did you have ownership interest in</p> <p>22 either one of those two companies?</p> <p>23 A. Late '90s to 2002.</p> <p>24 Q. And did you have ownership in both of</p>	<p style="text-align: right;">Page 13</p> <p>1 A. I have not.</p> <p>2 Q. I want to ask you about a few other</p> <p>3 people and companies. And just -- if you have any</p> <p>4 familiarity with them, just let me know. We've</p> <p>5 already kind of talked about your brother Dave Van</p> <p>6 Den Heuvel; is that correct?</p> <p>7 A. Yes.</p> <p>8 Q. Have you communicated with Dave since</p> <p>9 this lawsuit was filed about this lawsuit?</p> <p>10 A. He knows that I had a deposition today,</p> <p>11 yes.</p> <p>12 Q. Did you have any conversations with him</p> <p>13 about this lawsuit when it was first filed?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. What did you guys talk about?</p> <p>16 A. The day that I was given the first</p> <p>17 document, we talked about signing the document.</p> <p>18 Q. Which document was that? That wasn't the</p> <p>19 complaint, I'm guessing?</p> <p>20 A. It was the document that I signed, the</p> <p>21 one-page document that I signed.</p> <p>22 Q. Oh. The document that said that you were</p> <p>23 waiving service in this -- does that ring a bell?</p> <p>24 A. No.</p>

<p style="text-align: right;">Page 14</p> <p>1 Q. Okay. Do you know if Dave Van Den Heuvel 2 has gotten a copy of the complaint in this lawsuit? 3 A. I don't know. 4 Q. You didn't give him one; is that correct? 5 A. No. 6 Q. Have you communicated with Sharad Tak 7 since this lawsuit was filed? 8 A. No. 9 Q. When was the last time you had 10 communications with Sharad Tak? 11 A. Years ago. 12 Q. Okay. Has it been in the last five years 13 you've been in communication with Sharad Tak? 14 A. I don't believe so, no. 15 Q. So that would be -- that would go back to 16 2014ish, 2013? 17 A. Correct. 18 Q. How about in the last 10 years, have you 19 had communication with Sharad Tak? That would go 20 back around 2008ish. 21 A. Personally, no. 22 Q. Okay. With respect to the EPC contracts 23 that are at issue in this case, did you personally 24 have any conversations with Sharad Tak when those</p>	<p style="text-align: right;">Page 16</p> <p>1 A. To my knowledge, Steven Peters worked 2 with Ron Van Den Heuvel. 3 Q. And which company, to your knowledge, did 4 Steven Peters work with Ron Van Den Heuvel, if you 5 know? 6 A. I don't know. 7 Q. You're not related to Steven Peters? 8 A. No. 9 Q. We talked about Ray Van Den Heuvel. 10 That's one of your builders, correct, Raymond Van Den 11 Heuvel? 12 A. Yes. 13 Q. And Ryan Van Den Heuvel, is that one of 14 your brothers or is that one of the nephews? 15 A. Ryan is the nephew. 16 Q. Have you ever heard of the company JK of 17 De Pere, LLC? 18 A. No. 19 Q. How about the name William Bain, B-A-I-N? 20 A. He was married to my sister at one time. 21 They have been divorced. 22 Q. And what was your sister's name? 23 A. Ann. 24 Q. Was Van Den Heuvel, then was --</p>
<p style="text-align: right;">Page 15</p> <p>1 were being negotiated? 2 A. Originally in 2006, 2007, yes. 3 Q. Was that the last time you communicated 4 with Sharad Tak, when you were negotiating these EPC 5 contracts? 6 A. The last time would have been when we did 7 his mill up in Oconto Falls -- or had a contract with 8 his mill up in Oconto Falls. 9 Q. And when you say "we," you mean Spirit 10 Construction? 11 A. Spirit Construction. 12 Q. And the mill up in Oconto Falls, just so 13 we're all on the same page, are you talking about -- 14 that's the contract where Spirit Construction 15 performed some upgrades on that mill? 16 A. Yes. 17 Q. Do you know what year Spirit Construction 18 completed those upgrades on the Oconto Falls mill, if 19 you remember? 20 A. No. 21 Q. Are you familiar with the name Steven 22 Peters? 23 A. Yes. 24 Q. Who is that?</p>	<p style="text-align: right;">Page 17</p> <p>1 A. Yes. 2 Q. -- William Bain's -- 3 A. Yes. 4 Q. -- wife? 5 A. Yes. 6 Q. Are you in business in any way with 7 William Bain currently? 8 A. Yes. 9 Q. And which company? 10 A. He's owner of VHC. 11 Q. He's an owner of VHC? 12 A. Same -- same stock, value. 13 Q. And you may -- you might have already 14 said it. Is VHC -- is there a hundred percent 15 ownership of Spirit Construction Services? 16 A. Yes. 17 Q. How about the name James Kellam, 18 K-E-L-L-A-M? 19 A. Yes. 20 Q. Who is that? 21 A. Right now, he works for VHC. 22 Q. He works for VHC? 23 A. Yes. 24 Q. In what capacity? Or what's his title at</p>

5 (Pages 14 - 17)

<p style="text-align: right;">Page 18</p> <p>1 VHC?</p> <p>2 A. I don't know.</p> <p>3 Q. Is he an officer of the company?</p> <p>4 A. Yes.</p> <p>5 Q. Does he have any ownership in the</p> <p>6 company?</p> <p>7 A. Yes.</p> <p>8 Q. Is he related to you?</p> <p>9 A. No.</p> <p>10 Q. So he's not a brother-in-law?</p> <p>11 A. No.</p> <p>12 Q. How did you get to know James Kellam?</p> <p>13 A. When he came to work for us. That was</p> <p>14 the first...</p> <p>15 Q. So you didn't know him before he started</p> <p>16 to work for you?</p> <p>17 A. No -- yes. He is married to a person</p> <p>18 that I babysat when I was very young. So, yes, I did</p> <p>19 know him, but outside of business.</p> <p>20 Q. Gotcha. Craig Kassner, I think you said</p> <p>21 his name earlier. He's a brother-in-law; is that</p> <p>22 correct?</p> <p>23 A. Yes.</p> <p>24 Q. And he has ownership in Spirit as well?</p>	<p style="text-align: right;">Page 20</p> <p>1 A. I know the names.</p> <p>2 Q. And how do you know about those names, or</p> <p>3 do you know what those companies do?</p> <p>4 A. No, I do not, no.</p> <p>5 Q. Has Spirit Construction ever done</p> <p>6 business with Eco-Fibre, Inc., or Re-Box Paper, Inc.?</p> <p>7 A. Yes, Eco-Fibre. No, Re-Box -- we, have</p> <p>8 not.</p> <p>9 Q. And with Eco-Fibre, Inc., did you perform</p> <p>10 construction services for that company?</p> <p>11 A. Yes.</p> <p>12 Q. Do you know what year you did that?</p> <p>13 A. No.</p> <p>14 Q. Was it after 2010?</p> <p>15 A. It was before.</p> <p>16 Q. It was before 2010?</p> <p>17 Was it before 2000?</p> <p>18 A. No.</p> <p>19 Q. What kind of construction services did</p> <p>20 you provide for Eco-Fibre, Inc.?</p> <p>21 A. It was a pulping plant. So they had a</p> <p>22 few --</p> <p>23 Q. Did you --</p> <p>24 A. -- additions to it.</p>
<p style="text-align: right;">Page 19</p> <p>1 A. Yes.</p> <p>2 Q. What about the company Vos Electric,</p> <p>3 Inc.?</p> <p>4 A. It's a company owned by VHC.</p> <p>5 Q. A company owned by VHC. Okay. A hundred</p> <p>6 percent?</p> <p>7 A. Yes.</p> <p>8 Q. And VHC is the holding company we've been</p> <p>9 talking about. What about Oconto Falls Tissue Plant,</p> <p>10 Inc.? Are you familiar with that company?</p> <p>11 A. No.</p> <p>12 Q. Okay.</p> <p>13 A. No.</p> <p>14 Q. Is Oconto Falls Tissue Plant, Inc., is</p> <p>15 that a company that Spirit Construction performed</p> <p>16 upgrades for, or are we talking --</p> <p>17 A. Yes. We have performed work there.</p> <p>18 Q. You performed work at the plant. But do</p> <p>19 you know if you performed work for that specific</p> <p>20 company?</p> <p>21 A. I -- I don't -- don't know.</p> <p>22 Q. Okay. How about Eco-Fibre, Inc., and</p> <p>23 what's formally known as Re-Box Paper, Inc.? Are you</p> <p>24 familiar --</p>	<p style="text-align: right;">Page 21</p> <p>1 Q. Did you do new construction on the plant?</p> <p>2 A. I do not know.</p> <p>3 Q. Do you know if you performed upgrades for</p> <p>4 the plant?</p> <p>5 A. Yes.</p> <p>6 Q. You did for sure?</p> <p>7 A. Yes.</p> <p>8 Q. Do you know if Spirit Construction had an</p> <p>9 EPC contract with Eco-Fibre, Inc., for that work?</p> <p>10 A. No.</p> <p>11 Q. You don't know or they did not have one?</p> <p>12 A. We did not have one.</p> <p>13 Q. Okay. Did they have any -- was there any</p> <p>14 type of agreement that you had with Eco-Fibre, Inc.,</p> <p>15 for that work?</p> <p>16 A. There would have been contracts.</p> <p>17 Q. What would that contract have been</p> <p>18 titled, or what was the category --</p> <p>19 (Simultaneous colloquy.)</p> <p>20 THE COURT REPORTER: One at a time, please.</p> <p>21 BY THE WITNESS:</p> <p>22 A. A lump sum.</p> <p>23 Q. A lump sum contract?</p> <p>24 A. A lump sum or a time and material.</p>

<p style="text-align: right;">Page 22</p> <p>1 Q. So you had a lump sum contract with 2 Eco-Fibre, Inc.?</p> <p>3 A. Lump sum or time and material.</p> <p>4 Q. And can you kind of explain to me what a 5 lump sum contract is and just in a business that 6 Spirit Construction would be using it?</p> <p>7 A. A lump sum is when a project is fully 8 engineered that you can put a number to that to 9 complete the project. That would be a lump sum 10 project.</p> <p>11 Q. How does a lump sum contract or project 12 differentiate between a time and materials project or 13 contract?</p> <p>14 A. A time and material contract is usually 15 the owner would direct our people what they want 16 done.</p> <p>17 Q. So a lump sum project, everything is 18 fully engineered beforehand so you know what Spirit 19 Construction has to do, and somebody pays you and you 20 do it with no direction from the owner; is that 21 correct?</p> <p>22 A. Correct.</p> <p>23 Q. And then time and materials, you're 24 getting more hands-on directions as the project goes</p>	<p style="text-align: right;">Page 24</p> <p>1 that we're adding.</p> <p>2 Q. Are you familiar with the company 3 Fortress Credit Corporation?</p> <p>4 A. No.</p> <p>5 Q. Okay. How about Evergreen Development, 6 LLC?</p> <p>7 A. No.</p> <p>8 Q. Okay. How about Swakweko, LLC, 9 S-W-A-K-W-E-K-O?</p> <p>10 A. No.</p> <p>11 Q. What about -- go ahead.</p> <p>12 A. Can you respell that?</p> <p>13 Q. It's Swakweko, S-W-A-K-W-E-K-0, LLC.</p> <p>14 A. No.</p> <p>15 Q. What about the name Patrick Murphy?</p> <p>16 A. He's my brother-in-law.</p> <p>17 Q. Does he have ownership interest in VHC?</p> <p>18 A. No.</p> <p>19 Q. Okay. And then Ann Murphy, I'm guessing, 20 is your sister?</p> <p>21 A. Yes.</p> <p>22 Q. Does she have ownership in VHC?</p> <p>23 A. No.</p> <p>24 Q. Do any of your sisters have ownership in</p>
<p style="text-align: right;">Page 23</p> <p>1 forward; is that correct?</p> <p>2 A. Yes.</p> <p>3 Q. And how do the lump sum contract and the 4 time and materials contract differentiate from an EPC 5 contract?</p> <p>6 A. An EPC contract is the owner has an idea. 7 He comes and he says, "Okay. I need this completed." 8 It is then the duty of the EPC contractor to find an 9 engineer to engineer it, -- engineer it to the specs 10 or to the owner's final outcome, and then to go ahead 11 and construct that facility.</p> <p>12 Q. Can you have an EPC contract when you're 13 not doing any new construction on a facility, if 14 you're just doing upgrades of some sort?</p> <p>15 A. I'm sorry?</p> <p>16 Q. Let me rephrase the question. If you're 17 doing upgrades on a facility and it's not a complete 18 new construction, can there be an EPC contract in 19 that scenario? Is that something that happens?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And that's just the same thing 22 you're saying, but just with respect to whatever 23 you're adding to the facility; is that correct?</p> <p>24 A. Correct. It has to be a specific item</p>	<p style="text-align: right;">Page 25</p> <p>1 VHC?</p> <p>2 A. No.</p> <p>3 Q. What about Bernie Dolan?</p> <p>4 A. I know who he is.</p> <p>5 Q. Okay.</p> <p>6 A. I've never met him.</p> <p>7 Q. Who is he?</p> <p>8 A. He owned a paper mill somewhere in 9 northern Wisconsin.</p> <p>10 Q. Do you know what the name of that paper 11 mill is?</p> <p>12 A. No.</p> <p>13 Q. It's all right if you don't. And that's 14 another thing I should have told you before we got 15 started. We don't need you to guess if you don't 16 know. If you have a good estimate about something, 17 feel free to share that with us, but if you're 18 totally speculating, "I don't know" or "I don't 19 recall" is a fine answer.</p> <p>20 A. Okay.</p> <p>21 Q. What about the name John Jez, J-E-Z?</p> <p>22 A. No.</p> <p>23 Q. All right. You said -- I want to switch 24 gears here a little bit. You said that you had been</p>

7 (Pages 22 - 25)

<p style="text-align: right;">Page 26</p> <p>1 deposed before; is that correct?</p> <p>2 A. Yes.</p> <p>3 Q. How many times have you been deposed?</p> <p>4 A. Three. Three or four.</p> <p>5 Q. And under what circumstances did these</p> <p>6 three or four depositions occur?</p> <p>7 A. First one was in 2008 by IFC.</p> <p>8 Q. What about the other deposition?</p> <p>9 A. And we had a mediation -- an arbitration</p> <p>10 on a cement plant.</p> <p>11 Q. Was that --</p> <p>12 A. And --</p> <p>13 Q. I'm sorry. Go ahead.</p> <p>14 A. And the third one would be we had an</p> <p>15 engineering dispute on a project.</p> <p>16 Q. Okay. The engineering dispute, was</p> <p>17 that -- did that end up with a lawsuit being filed?</p> <p>18 A. Yes.</p> <p>19 Q. When was that lawsuit filed?</p> <p>20 A. I'm sorry. I do not know.</p> <p>21 Q. Was it in the last 10 years?</p> <p>22 A. Yes.</p> <p>23 Q. So it was after your deposition with IFC</p> <p>24 in 2008?</p>	<p style="text-align: right;">Page 28</p> <p>1 you recall?</p> <p>2 A. I don't recall. Yes, there were, but I</p> <p>3 don't recall.</p> <p>4 Q. Did Husch Blackwell represent you in that</p> <p>5 lawsuit?</p> <p>6 A. No.</p> <p>7 Q. What attorney -- who represented you in</p> <p>8 that lawsuit?</p> <p>9 A. An attorney out of Cincinnati.</p> <p>10 Q. Do you remember the name or...</p> <p>11 A. No.</p> <p>12 Q. All right. How about the arbitration</p> <p>13 with the cement plant? Do you know when that</p> <p>14 arbitration occurred?</p> <p>15 A. Probably 2010.</p> <p>16 Q. 2010?</p> <p>17 A. 2010, 2011.</p> <p>18 Q. Was that cement plant arbitration before</p> <p>19 or after this trial in Cincinnati?</p> <p>20 A. Before.</p> <p>21 Q. Okay. And what did that arbitration</p> <p>22 entail? Did that entail a contract or a project of</p> <p>23 some sort?</p> <p>24 A. Yes.</p>
<p style="text-align: right;">Page 27</p> <p>1 A. Yes.</p> <p>2 Q. Do you know what the title of that</p> <p>3 lawsuit was or who sued who in that lawsuit?</p> <p>4 A. Jedson, J-E-D-S-O-N, versus Spirit</p> <p>5 Construction.</p> <p>6 Q. Did that dispute involve an EPC contract?</p> <p>7 A. No.</p> <p>8 Q. What kind of project did that dispute</p> <p>9 involve?</p> <p>10 A. It was an installation of a paper</p> <p>11 machine.</p> <p>12 Q. And that was installation of machine and</p> <p>13 equipment at an existing plant; is that correct?</p> <p>14 A. Yes.</p> <p>15 Q. Do you know what court that lawsuit was</p> <p>16 filed in?</p> <p>17 A. The trial was in Cincinnati.</p> <p>18 Q. Do you know if that was in state court or</p> <p>19 federal court?</p> <p>20 A. I do not know.</p> <p>21 Q. Did you testify at that trial?</p> <p>22 A. Yes.</p> <p>23 Q. Did anyone else testify at that trial on</p> <p>24 behalf of Spirit Construction that worked there, if</p>	<p style="text-align: right;">Page 29</p> <p>1 Q. Was it an EPC contract?</p> <p>2 A. No.</p> <p>3 Q. What kind of contract was it?</p> <p>4 A. It was a lump sum.</p> <p>5 Q. Was the trial also a lump sum contract,</p> <p>6 or was that a time and materials contract?</p> <p>7 A. That was a lump sum also.</p> <p>8 Q. And for the arbitration, who sued who in</p> <p>9 that case?</p> <p>10 A. We sued.</p> <p>11 Q. Who did you sue?</p> <p>12 A. American Cement.</p> <p>13 Q. And where is American Cement located?</p> <p>14 A. Florida.</p> <p>15 Q. Was that with the American Arbitration</p> <p>16 Association, do you know?</p> <p>17 A. Yes.</p> <p>18 Q. And then you said you've been deposed</p> <p>19 three or four times. So we've got three. This is</p> <p>20 the fourth. Are there any others, or is that it?</p> <p>21 A. I may have been deposed twice in the</p> <p>22 Jedson.</p> <p>23 Q. In Jedson. Okay.</p> <p>24 So deposed twice and testified,</p>

<p style="text-align: right;">Page 30</p> <p>1 correct?</p> <p>2 A. Correct.</p> <p>3 Q. Did you testify at the arbitration</p> <p>4 proceedings with the cement plant?</p> <p>5 A. Yes.</p> <p>6 Q. I'm going to switch gears a little bit</p> <p>7 again. I have here a copy of the answer that you and</p> <p>8 Spirit Construction filed in this case.</p> <p>9 MR. LANGS: We'll mark this one as Exhibit 1.</p> <p>10 (Van Den Heuvel Deposition</p> <p>11 Exhibit No. 1 marked as</p> <p>12 requested.)</p> <p>13 BY MR. LANGS:</p> <p>14 Q. If you can just page through that answer</p> <p>15 and --</p> <p>16 MR. ROMASHKO: I'm sorry, Brian. Do you have</p> <p>17 a copy of that?</p> <p>18 MR. LANGS: You know, I only have three</p> <p>19 copies.</p> <p>20 BY MR. LANGS:</p> <p>21 Q. I'll represent to you that this is the</p> <p>22 answer that you, Steve Van Den Heuvel, and Spirit</p> <p>23 Construction filed in this case. Have you ever seen</p> <p>24 the answer before it was filed?</p>	<p style="text-align: right;">Page 32</p> <p>1 Van Den Heuvel owned and/or operated TPTC?</p> <p>2 A. I don't know what his capacity there was.</p> <p>3 I know he owned it.</p> <p>4 Q. Okay. What about PCDI? Did he also own</p> <p>5 that company?</p> <p>6 A. I don't know what portion, but he owned</p> <p>7 some of it.</p> <p>8 Q. So he wasn't a hundred percent owner?</p> <p>9 A. I have no idea.</p> <p>10 Q. Did you ever have any ownership interest</p> <p>11 in PCDI? I think you answered that already.</p> <p>12 A. Yes, I answered.</p> <p>13 Q. And then at some point, you stopped</p> <p>14 having ownership interest in it, correct?</p> <p>15 A. Correct. Yes.</p> <p>16 Q. Did you have ownership interest in TPTC</p> <p>17 or PCDI after 2008?</p> <p>18 A. No.</p> <p>19 Q. Did you have it after 2005?</p> <p>20 A. No.</p> <p>21 Q. What about Eco-Fibre? Do you know</p> <p>22 whether or not your brother Ron ever had any</p> <p>23 ownership interest in Eco-Fibre?</p> <p>24 A. Yes, he did.</p>
<p style="text-align: right;">Page 31</p> <p>1 A. Yes.</p> <p>2 Q. And you reviewed answers and spoke to</p> <p>3 your attorney about them?</p> <p>4 A. Yes.</p> <p>5 Q. Does the answer I just put in front of</p> <p>6 you look like the answer that you reviewed when this</p> <p>7 was filed back in October of 2017, to the best of</p> <p>8 your knowledge?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. I want to go through just a couple</p> <p>11 of your answers with you and just ask you some</p> <p>12 follow-up questions.</p> <p>13 A. Okay.</p> <p>14 Q. If you could turn to Page 6, please. And</p> <p>15 I'm looking at Paragraph 19. And the second sentence</p> <p>16 or third sentence of Paragraph 19 says, "During the</p> <p>17 relevant time period, Ron" -- and that's your</p> <p>18 brother, Ron Van Den Heuvel -- "owned and/or operated</p> <p>19 TPTC, PCDI, Eco-Fibre, and Oconto Falls."</p> <p>20 And one of your answers was that the</p> <p>21 Spirit defendants lacked knowledge and information</p> <p>22 sufficient to admit or deny the remaining</p> <p>23 allegations.</p> <p>24 Do you know whether or not Ron</p>	<p style="text-align: right;">Page 33</p> <p>1 Q. Do you know whether he was a hundred</p> <p>2 percent owner of Eco-Fibre?</p> <p>3 A. I don't know.</p> <p>4 Q. And Oconto Falls, do you know if he ever</p> <p>5 had any ownership in --</p> <p>6 A. Yes, he did.</p> <p>7 Q. And you don't know whether or not he was</p> <p>8 a hundred percent?</p> <p>9 A. Correct.</p> <p>10 Q. Did you ever have any ownership interest</p> <p>11 in Oconto Falls?</p> <p>12 A. No.</p> <p>13 Q. And did you ever have any ownership</p> <p>14 interest in Eco-Fibre? I know you already answered.</p> <p>15 A. VHC now owns --</p> <p>16 Q. All right. Okay. Could you take a look</p> <p>17 at Paragraph 29? And that's on Page 8. Paragraph 29</p> <p>18 states, "In order to devise a plan whereby Ron could</p> <p>19 avoid a takeover by Fortress of the Oconto Falls</p> <p>20 tissue plant, Ron enlisted the assistance of his</p> <p>21 brother Steve and his national construction company</p> <p>22 Spirit."</p> <p>23 Did I read that correctly?</p> <p>24 A. Yes.</p>

<p style="text-align: right;">Page 34</p> <p>1 Q. And in your response, it says that</p> <p>2 "Spirit defendants admit only that Ron sought the</p> <p>3 help of Spirit and its related companies with respect</p> <p>4 to various CPA EPC contracts and deny all other</p> <p>5 allegations in Paragraph 29."</p> <p>6 Did I read that correctly?</p> <p>7 A. Yes.</p> <p>8 Q. The next paragraph is 30. And 30 -- I'm</p> <p>9 just going to read the first one for now. And it</p> <p>10 says, "Sometime in October 2005, Steve and Ron</p> <p>11 proposed a solution to IFC and Fortress. The basic</p> <p>12 simplified proposal was as follows."</p> <p>13 Did I read that correctly?</p> <p>14 A. Yes.</p> <p>15 Q. And then your response way back -- way</p> <p>16 down after A, B, C, and D was that "The Spirit</p> <p>17 defendants deny the allegations in Paragraph 30 and</p> <p>18 affirmatively deny that Steve Van Den Heuvel ever had</p> <p>19 such a conversation with IFC"; is that correct?</p> <p>20 A. Yes.</p> <p>21 Q. And it also says that, "The Spirit</p> <p>22 defendants allege that Ron had an employee at the</p> <p>23 time named Steve Peters, whom plaintiff may have</p> <p>24 confused with Steve Van Den Heuvel."</p>	<p style="text-align: right;">Page 36</p> <p>1 BY THE WITNESS:</p> <p>2 A. A and B, I understand. C, I don't really</p> <p>3 understand. I understand, but it's not worded --</p> <p>4 Q. Okay.</p> <p>5 A. -- the way I would understand it.</p> <p>6 Q. And maybe I'll back up a little bit.</p> <p>7 Back in October of 2005, do you remember having</p> <p>8 conversations with IFC and Ron and other parties</p> <p>9 about some sort of solution to the lawsuits that were</p> <p>10 going on and the money that Ron Van Den Heuvel owed</p> <p>11 IFC?</p> <p>12 A. No.</p> <p>13 Q. Were you involved in those negotiations</p> <p>14 at all?</p> <p>15 A. No.</p> <p>16 Q. And how did you come to understand what's</p> <p>17 described in A, B, C, and D then?</p> <p>18 A. I did understand the contracts. I did</p> <p>19 understand that we were going -- that in there,</p> <p>20 Ron -- we were going to use Ron to do some of the</p> <p>21 work.</p> <p>22 Q. Okay.</p> <p>23 A. That's where -- and then I do know that</p> <p>24 there would have been enough -- if those EPCs would</p>
<p style="text-align: right;">Page 35</p> <p>1 Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. Who is Steve Peters?</p> <p>4 A. He was --</p> <p>5 MR. ROMASHKO: Objection, asked and answered.</p> <p>6 BY THE WITNESS:</p> <p>7 A. I answered that.</p> <p>8 Q. Well, you can answer again. I mean, he</p> <p>9 objected. But if you know, you can answer?</p> <p>10 A. I previously answered the question.</p> <p>11 Q. Can you answer it again? Do you know who</p> <p>12 he is?</p> <p>13 A. Steve Peters worked with Ron.</p> <p>14 (Brief interruption.)</p> <p>15 BY MR. LANGS:</p> <p>16 Q. So Steve Peters worked with Ron. Do you</p> <p>17 know if he worked at TPTC?</p> <p>18 A. I don't know which company.</p> <p>19 Q. If you look at A, B, C, and D in</p> <p>20 Paragraph 30 of the complaint, "The Spirit defendants</p> <p>21 deny these allegations." Are you familiar with the</p> <p>22 meetings and the plan that A, B, C, and D describes?</p> <p>23 MR. ROMASHKO: I'm going to object as to form</p> <p>24 on that.</p>	<p style="text-align: right;">Page 37</p> <p>1 have went ahead, those would have generated enough</p> <p>2 money to pay back.</p> <p>3 Q. Right. Okay. At what point in time did</p> <p>4 you yourself get involved in these negotiations that</p> <p>5 resulted in you signing a consent and acknowledgment</p> <p>6 form --</p> <p>7 MR. ROMASHKO: Objection, form and</p> <p>8 foundation.</p> <p>9 (Reporter clarification.)</p> <p>10 BY MR. LANGS:</p> <p>11 Q. I'll rephrase it. At what point in time</p> <p>12 did you become involved in the negotiations with IFC</p> <p>13 and Ron in order for you to end up signing the</p> <p>14 consent and acknowledgement that's at issue in this</p> <p>15 lawsuit?</p> <p>16 MR. ROMASHKO: Objection, form.</p> <p>17 BY THE WITNESS:</p> <p>18 A. I never did.</p> <p>19 Q. Okay. Well, at some point you signed --</p> <p>20 do you agree that you signed a pledge agreement or</p> <p>21 you signed a consent and acknowledgment that was</p> <p>22 attached to the pledge agreement?</p> <p>23 A. That day?</p> <p>24 Q. That day.</p>

<p style="text-align: right;">Page 38</p> <p>1 A. That day is the only time.</p> <p>2 Q. But before that, you never were involved</p> <p>3 in the negotiations personally?</p> <p>4 A. Not to my knowledge, no.</p> <p>5 Q. Was anyone at Spirit Construction</p> <p>6 involved in those negotiations?</p> <p>7 MR. ROMASHKO: Objection, form.</p> <p>8 BY THE WITNESS:</p> <p>9 A. Not to my knowledge.</p> <p>10 Q. When you signed the consent and</p> <p>11 acknowledgement that was attached to the pledge</p> <p>12 agreement at issue in this case, where did you sign</p> <p>13 it?</p> <p>14 A. In the conference room at Vos and</p> <p>15 Spirit's office in Green Bay.</p> <p>16 Q. Was Ron present when you signed that</p> <p>17 consent and acknowledgement?</p> <p>18 A. I don't know for sure who was in there.</p> <p>19 One of my brothers were.</p> <p>20 Q. Do you know or remember how you received</p> <p>21 the pledge agreement and the consent and</p> <p>22 acknowledgement that you ended up executing that day?</p> <p>23 A. Ron brought it to me.</p> <p>24 Q. In person or at some point in time --</p>	<p style="text-align: right;">Page 40</p> <p>1 BY MR. LANGS:</p> <p>2 Q. Spirit's response was, "The Spirit</p> <p>3 defendants deny the allegations," and stated in</p> <p>4 Paragraph 31, "Further answering, the Spirit</p> <p>5 defendants allege that at the time stated, Steve</p> <p>6 Van Den Heuvel lived and worked for Spirit in</p> <p>7 Georgia."</p> <p>8 MR. ROMASHKO: Objection, form.</p> <p>9 BY MR. LANGS:</p> <p>10 Q. Did I read that correctly?</p> <p>11 A. Yes.</p> <p>12 Q. Are you saying that in mid to late</p> <p>13 October 2005, you never invited any representatives</p> <p>14 from IFC to Wisconsin to discuss this proposal we're</p> <p>15 talking about?</p> <p>16 A. No, I did not.</p> <p>17 Q. Did you ever discuss this proposal with</p> <p>18 anyone from IFC prior to your execution of the</p> <p>19 consent and acknowledgement that was attached to the</p> <p>20 pledge agreement?</p> <p>21 A. No.</p> <p>22 Q. Okay. Did you ever discuss the EPC</p> <p>23 contracts that were a part of that pledge agreement</p> <p>24 with anyone at IFC?</p>
<p style="text-align: right;">Page 39</p> <p>1 A. In person.</p> <p>2 Q. Did you and Ron discuss your execution of</p> <p>3 that contract or -- let me rephrase that. Strike</p> <p>4 that.</p> <p>5 Did you and Ron discuss your</p> <p>6 execution of the consent and acknowledgment that was</p> <p>7 attached to the pledge agreement?</p> <p>8 A. That day, yes.</p> <p>9 Q. Could you take a look at Paragraph 31,</p> <p>10 which is on the next page. 31 says, "In mid to late</p> <p>11 October 2005, Steve invited representatives from IFC</p> <p>12 to Wisconsin to discuss the complex proposal and to</p> <p>13 conduct some due diligence with respect" -- and</p> <p>14 there's a missing "to" -- "with respect to the</p> <p>15 proposed transaction."</p> <p>16 Did I read that correctly, except</p> <p>17 for my typo?</p> <p>18 A. Yes.</p> <p>19 Q. And then --</p> <p>20 MR. SPAHN: I'm sorry. What paragraph are</p> <p>21 you on?</p> <p>22 MR. LANGS: We're on 31 on page 9.</p> <p>23 MR. SPAHN: Thanks.</p> <p>24</p>	<p style="text-align: right;">Page 41</p> <p>1 MR. ROMASHKO: Objection, form and</p> <p>2 foundation.</p> <p>3 BY THE WITNESS:</p> <p>4 A. Not to my knowledge.</p> <p>5 Q. Did you ever have any conversations with</p> <p>6 anyone at IFC prior to 2010?</p> <p>7 A. Well, a deposition in 2008.</p> <p>8 Q. Okay. But that was as part of a lawsuit,</p> <p>9 correct?</p> <p>10 A. Yes.</p> <p>11 Q. As part of the negotiations leading up to</p> <p>12 what happened to be the lawsuit, did you ever have</p> <p>13 any conversations with anyone at IFC?</p> <p>14 A. Not -- I don't know.</p> <p>15 Q. Okay. You don't remember?</p> <p>16 A. I don't remember.</p> <p>17 Q. If you did, you don't remember?</p> <p>18 A. Right. If I did, I don't remember.</p> <p>19 Q. If you could take a look at the next</p> <p>20 paragraph.</p> <p>21 A. Excuse me.</p> <p>22 Q. And if you need to take a break at any</p> <p>23 time -- like I said, it sounds like we're going to be</p> <p>24 here most of the day, so we're in no rush.</p>

<p style="text-align: right;">Page 42</p> <p>1 Paragraph 32, which is also on</p> <p>2 Page 9, it says, "During these" -- you know what,</p> <p>3 I'll skip that one since we already answered that.</p> <p>4 If you could look at 33. It says,</p> <p>5 "On or about November 25th, 2005, attorneys</p> <p>6 collectively representing Ron and his companies,</p> <p>7 Steve, and Spirit faxed letters of intent regarding</p> <p>8 the five above-referenced EPC contracts through IFC."</p> <p>9 Did I read that correctly?</p> <p>10 A. Yes.</p> <p>11 Q. And then in your response, it says that</p> <p>12 "The Spirit defendants admit only that Exhibit A to</p> <p>13 the complaint purports to be a fax from C. David</p> <p>14 Stellpflug" -- I'm not sure how to pronounce that;</p> <p>15 it's S-T-E-L-L-P-F-L-U-G -- "an attorney who has at</p> <p>16 times represented both the Spirit defendants and Ron</p> <p>17 to IFC Corporation." Then it says, "The Spirit</p> <p>18 defendants deny that the identified communication was</p> <p>19 sent on behalf of the Spirit defendants."</p> <p>20 Did I read that part correctly?</p> <p>21 A. Yes.</p> <p>22 Q. Who is David Stellpflug? Am I saying</p> <p>23 that correctly?</p> <p>24 A. Stellpflug.</p>	<p style="text-align: right;">Page 44</p> <p>1 know. He did represent him on other things. I don't</p> <p>2 know on this.</p> <p>3 Q. Does David Stellpflug still represent</p> <p>4 Spirit Construction in some aspects or some part of</p> <p>5 the business?</p> <p>6 A. He's retired.</p> <p>7 Q. Okay. Paragraph 34 is the next one on</p> <p>8 that page. And it states, "One of the letters of</p> <p>9 intent which outlined the EPC contract between Spirit</p> <p>10 and Maryland Tissue Company for the construction of</p> <p>11 the Maryland tissue plant was executed by Steve and</p> <p>12 Spirit."</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. And then there's A, B, C, D, and E, which</p> <p>16 are subparagraphs to Paragraph 34 of the complaint.</p> <p>17 And those -- I'll represent for the court reporter</p> <p>18 that they kind of summarize the letters of intent</p> <p>19 that are referenced in Paragraph 34. Is that a fair</p> <p>20 characterization?</p> <p>21 MR. ROMASHKO: Objection to form and</p> <p>22 foundation.</p> <p>23 BY MR. LANGS:</p> <p>24 Q. I'm not saying that you agree with them.</p>
<p style="text-align: right;">Page 43</p> <p>1 Q. Stellpflug.</p> <p>2 A. Stellpflug Law. And he was an attorney</p> <p>3 in De Pere.</p> <p>4 Q. And did David Stellpflug ever represent</p> <p>5 Spirit Construction?</p> <p>6 A. Yes.</p> <p>7 Q. And also represented Ron Van Den Heuvel;</p> <p>8 is that correct?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. But David Stellpflug didn't</p> <p>11 represent Spirit Construction or yourself with</p> <p>12 respect to the negotiations or the settlement</p> <p>13 agreement that -- let me rephrase that question.</p> <p>14 Did David Stellpflug ever represent</p> <p>15 Spirit Construction with respect to the negotiation</p> <p>16 that ended up with you signing the consent and</p> <p>17 acknowledgement that was attached to the pledge</p> <p>18 agreement we've been discussing?</p> <p>19 A. No.</p> <p>20 Q. Okay. Did he ever represent Ron Van Den</p> <p>21 Heuvel in those negotiations?</p> <p>22 MR. ROMASHKO: Objection, foundation.</p> <p>23 BY THE WITNESS:</p> <p>24 A. I don't -- to my knowledge -- I don't</p>	<p style="text-align: right;">Page 45</p> <p>1 I'm just saying --</p> <p>2 A. Yes. That's --</p> <p>3 Q. And then in your response, it says that</p> <p>4 you -- that the Spirit defendants refer to this</p> <p>5 document for a true and complete statement of its</p> <p>6 contents and deny plaintiff's characterizations of</p> <p>7 the same; is that correct?</p> <p>8 A. Yes.</p> <p>9 Q. Is there anything in Paragraphs A, B, C,</p> <p>10 D, and E -- or I should say subparagraphs A, B, C, D,</p> <p>11 and E of Paragraph 34 that you think is incorrect as</p> <p>12 you sit here today?</p> <p>13 MR. ROMASHKO: Objection. Counsel, you're</p> <p>14 asking the witness about five paragraphs about a</p> <p>15 document that you haven't shown the witness.</p> <p>16 MR. LANGS: Well, if he doesn't know, he</p> <p>17 doesn't know. That's fine.</p> <p>18 BY THE WITNESS:</p> <p>19 A. I would need to read the whole document</p> <p>20 to find out if...</p> <p>21 Q. Okay. Do you remember ever receiving</p> <p>22 this letter of intent that's referenced in</p> <p>23 Paragraph 34?</p> <p>24 A. I do remember us doing something with</p>

<p style="text-align: right;">Page 46</p> <p>1 Maryland, but I don't know right now.</p> <p>2 Q. Do you remember if whatever Spirit did</p> <p>3 with the Maryland tissue plant involved an EPC</p> <p>4 contract?</p> <p>5 A. Nothing ever was done at Maryland Tissue,</p> <p>6 so we did not ever come to a contract.</p> <p>7 Q. There was never any contract executed; is</p> <p>8 that correct?</p> <p>9 A. Constructed on, yes.</p> <p>10 Q. Wait. Let me -- was there ever a</p> <p>11 contract that was executed with respect to the</p> <p>12 Maryland tissue plant?</p> <p>13 A. No.</p> <p>14 Q. If you can skip all the way to Page 11,</p> <p>15 and I'm looking at Paragraph 42. Paragraph 42 says,</p> <p>16 "On or around November 14th, 2006, Spirit and</p> <p>17 ST Paper One executed the four CPA EPC contracts</p> <p>18 referenced in Paragraph 1 of this amended complaint.</p> <p>19 These four CPA EPC contracts were all executed by</p> <p>20 Steve on behalf of Spirit as contractor and Sharad on</p> <p>21 behalf of ST Paper One as owner." Your response is,</p> <p>22 "The Spirit defendants admit the allegations in</p> <p>23 Paragraph 42."</p> <p>24 My question for you is, with respect</p>	<p style="text-align: right;">Page 48</p> <p>1 A. Average, probably 15 to 20.</p> <p>2 Q. And would you say that that 15 to 20</p> <p>3 average -- and, again, I'm not going to hold you to</p> <p>4 the number. Would you say that's been the same for</p> <p>5 the last 10 years?</p> <p>6 A. Yes.</p> <p>7 Q. Would you say that's been the same for</p> <p>8 the last 20 years?</p> <p>9 A. Yes.</p> <p>10 Q. Going back to around 2000?</p> <p>11 A. Yes.</p> <p>12 Q. Of those 15 to 20 contracts that Spirit</p> <p>13 Construction commits to a year, how many of those are</p> <p>14 actually constructed, would you say, on average?</p> <p>15 A. 90 percent.</p> <p>16 Q. 90 percent. Of the 15 to 20 -- and it</p> <p>17 might be different every year. So if it is, just</p> <p>18 tell me. Would you say -- is there a certain</p> <p>19 percentage that are EPC contracts -- lump sum</p> <p>20 contracts and time and material contracts, or does it</p> <p>21 just depend on the year?</p> <p>22 A. It depends on the year, but nobody really</p> <p>23 uses EPC contracts for the last five years.</p> <p>24 Q. Okay. So we're talking, going back to,</p>
<p style="text-align: right;">Page 47</p> <p>1 to those four CPA EPC contracts, do you know what I'm</p> <p>2 referring to?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. Was this a normal occurrence for</p> <p>5 Spirit Construction in the normal course of business</p> <p>6 where they would execute four different EPC contracts</p> <p>7 at the same time?</p> <p>8 A. We had never done it before, no.</p> <p>9 Q. Have you ever done it since?</p> <p>10 A. No.</p> <p>11 Q. Have you ever executed two EPC contracts</p> <p>12 at the same time on the same day?</p> <p>13 A. On the same day, no.</p> <p>14 Q. And that's before this occurred and</p> <p>15 after; is that correct?</p> <p>16 A. Yes.</p> <p>17 Q. On average, how many EPC contracts, time</p> <p>18 and material contracts, and lump sum contracts does</p> <p>19 Spirit Construction Services execute here?</p> <p>20 MR. ROMASHKO: Objection, form.</p> <p>21 BY MR. LANGS:</p> <p>22 Q. And I guess another way for me to phrase</p> <p>23 the question would be, on average, how many projects</p> <p>24 does Spirit Construction Services commit to a year?</p>	<p style="text-align: right;">Page 49</p> <p>1 like, 2012, EPC contracts kind of fell out of</p> <p>2 industry practice? Is that another way of saying it?</p> <p>3 MR. ROMASHKO: Objection, mischaracterization</p> <p>4 of testimony.</p> <p>5 BY MR. LANGS:</p> <p>6 Q. What I'm doing is asking if that is what</p> <p>7 you're saying or not.</p> <p>8 A. Yes.</p> <p>9 Q. Why is that?</p> <p>10 A. The industry went different routes. A</p> <p>11 lot of it had to do with major companies in our field</p> <p>12 that we do pulp and paper to vendor-led.</p> <p>13 Q. And when you say companies went to</p> <p>14 vendor-led, are you talking about companies that</p> <p>15 would have been, prior to 2012, the owners in an EPC</p> <p>16 contract?</p> <p>17 A. The companies are -- the owners of a</p> <p>18 company would go to the vendor that they're</p> <p>19 purchasing the major piece of equipment from and do</p> <p>20 the financing through them. European stock and</p> <p>21 monies were more available.</p> <p>22 Q. Okay. Prior to 2012 when Spirit</p> <p>23 Construction Services was entering into these EPC</p> <p>24 contracts, can you kind of walk me through the</p>

<p style="text-align: right;">Page 50</p> <p>1 process of -- from beginning to finish and how you 2 would first negotiate the contract and then how 3 construction would go forward? 4 MR. ROMASHKO: Objection, form. 5 BY THE WITNESS: 6 A. An EPC contract is an owner would come to 7 us, ask us, okay, put together a budget figure to put 8 X in. We put that down. We go to an engineer. 9 Normally we would get paid a small amount to put 10 together a number. We would then bring that to them, 11 probably engineered 10 percent. It would give a 12 layout of what we were doing and what we were trying 13 to accomplish. 14 We would talk to the vendor of the 15 major piece of equipment, make sure that we knew the 16 output of that piece of equipment. And once we were 17 comfortable with the output of it, the engineers 18 would come to us and say, okay. For this, we could 19 do that. There would be so much material used. So 20 we would put that all -- so Spirit would put together 21 the labor portion and the material portion. We would 22 get the vendor and then equipment that needed to be 23 put in there. We would all sit down, go over it, and 24 say, Okay. For this, if you want a hundred tons a</p>	<p style="text-align: right;">Page 52</p> <p>1 Q. Okay. 2 A. I think we signed it in 2005, and we did 3 it in 2006. 4 Q. And then you said Spirit Construction 5 didn't really enter into any EPC contracts after 6 2012; is that correct? 7 A. Correct. 8 Q. So it was a span of six or seven years? 9 A. Correct. 10 Q. Okay. In those six or seven years, do 11 you know how many EPC contracts Spirit Construction 12 Service executed? 13 A. Eight to ten. 14 Q. Do those eight to ten EPC contracts 15 include the four EPC contracts with ST Paper that 16 we're sitting here today talking about? 17 A. No. 18 Q. So it's eight to ten and then plus those 19 four; is that correct? 20 A. Eight to ten, we actually constructed. 21 There was more than that that we gave numbers to. 22 Q. Okay. How many EPC contracts were 23 executed, were signed by both parties? 24 A. Including the four, probably 12 to 14.</p>
<p style="text-align: right;">Page 51</p> <p>1 day or 80 tons a day, whatever the output of the 2 machine was, we would construct that from the ground 3 for a certain amount. Then they would go to the 4 bank. 5 And I would say probably 75 -- 6 50 percent of them would come back and say, Yep, I 7 can get funding, or I can only get this much. Can we 8 do it? And it would go back and forth until we came 9 up with a number that they could live with. And then 10 we would have to construct and give them a plant that 11 could do what they asked for. 12 Q. Okay. 13 A. That's an EPC contract. We would do the 14 engineering, the procurement of the equipment, and 15 the construction of the plant. 16 Q. In the years that you were either the 17 president or, I think -- even though your title 18 wasn't some years but you were running things at 19 Spirit [sic], are you the person at Spirit who is 20 doing the initial negotiation of these EPC contracts? 21 A. The first contract that we did was in -- 22 EPC contract was in 2006. Before that, we did not do 23 EPC contracts. So our first EPC contract was in 24 2006 -- 2005 or 2006.</p>	<p style="text-align: right;">Page 53</p> <p>1 Q. Okay. So when you say that you 2 negotiated some of these EPC contracts, but they then 3 get billed, you're saying that some of these were 4 negotiated, but they didn't get to the execution 5 stage of the contract; is that correct? 6 A. Correct. 7 Q. So 12 to 14 EPC contracts between 2005 8 and 2012, roughly -- again, I'm not going to hold you 9 to the exact numbers -- that were executed between 10 Spirit Construction Services and some owner of a 11 project; is that correct? 12 A. Correct. 13 Q. And of those 12 to 14 projects, eight to 14 ten of them were completed; is that correct? 15 A. Correct. 16 Q. At what point during -- you kind of just 17 went through from beginning to end when you first 18 started negotiating an EPC contract all the way 19 through construction. I think at some point you said 20 there was some 10 percent payment down or something 21 along those lines. Do you remember saying something 22 about 10 percent when we were just talking about 23 that? 24 A. I said normally when we were giving a</p>

<p style="text-align: right;">Page 54</p> <p>1 number to a new client, we would ask for them to pay 2 for that service. 3 Q. Okay. And when does that request come in 4 the process? Is that before or after the execution 5 of the actual EPC contract? 6 A. That's the first thing. 7 Q. Okay. So you execute the contract. And 8 there's 10 percent due usually; is that correct? 9 A. No. 10 Q. You're getting paid the 10 percent before 11 the execution of the contract? 12 A. Correct. It was just for services to 13 give them a number to see if they can. 14 Q. Because then you can then take that money 15 and you can go try to find vendors and try to find 16 what you were talking about; is that correct? 17 A. It's a minimal amount for the time that 18 we have to spend to put the number together. It has 19 nothing to do with the contract at all. 20 Q. Okay. Prior to the execution of these 12 21 to 14 EPC contracts, on average, how much money is 22 Spirit Construction putting into the contract before 23 it's executed, of its own money, anything? 24 A. It depends if we get paid the first part</p>	<p style="text-align: right;">Page 56</p> <p>1 150,000; is that correct? 2 A. Probably closer to six to eight. 3 Q. So anywhere from -- 4 A. It's more than half. 5 Q. And what determines whether or not you 6 require that payment to be made? 7 A. If they're willing to give it to us or 8 not. 9 Q. Okay. Whose decision at Spirit 10 Construction Services is it when one of these owners 11 isn't willing to make that payment to go ahead and 12 keep negotiating the contract? Is that your decision 13 as the president, or is somebody else making that 14 decision? 15 A. It's a group of two or three of us that 16 get together and say, Hey, do we want to keep 17 pursuing this or not? 18 Q. And we're talking from 2005 or '6 19 through 2012, correct? 20 A. Correct. 21 Q. During that time period, who are these 22 other two or three people that are making that 23 decision? 24 A. Me and Doug Barone.</p>
<p style="text-align: right;">Page 55</p> <p>1 or if we don't get paid. And it's a half or maybe 2 even three-quarters we don't get paid, so... 3 Q. Well, let me rephrase it. So of these 12 4 to 14 contracts, half of them, you don't get paid 5 that 10 percent when you start negotiating; is that 6 correct? 7 A. I never said 10 percent. It's very 8 minimal. It is only for our time that we spend to 9 put that number together. 10 Q. Okay. And how much money is that, then? 11 If it's not 10 percent -- 12 A. It's anywhere from 25,000 to 150,000. 13 Q. And that varies based on the price of the 14 contract is what it sounds like; is that correct? 15 A. Based on if our engineering that we have 16 to go to wants to get paid for their time. It 17 depends on if the vendor has anything. It depends on 18 who we have involved. 19 Q. And then correct me if I'm wrong. I just 20 don't -- I don't know a lot about this, so I'm trying 21 to have you educate me while we're sitting here. You 22 said of those 12 to 14 contracts, that Spirit 23 actually executed four or five of them? You never 24 got that first payment, whether it's 25,000 or</p>	<p style="text-align: right;">Page 57</p> <p>1 Q. How do you spell Doug's last name? 2 A. B-A-R-O-N-E. 3 Q. And you said there's a third person? 4 A. And probably a project manager or 5 something. 6 (Cell phone interruption.) 7 BY MR. LANGS: 8 Q. So it would depend on the project? 9 A. Yes. 10 Q. Was Doug Barone an officer of -- 11 A. Yes. 12 Q. -- Spirit at that time? 13 Do you know what his title was? 14 A. No. 15 Q. Is he still with the company? 16 A. Yes. 17 Q. Do you know what his title is now? 18 A. Vice president. 19 Q. Is there a president now? 20 A. Yes. 21 Q. What's the president's name? 22 A. Craig Kassner. 23 Q. Okay. Was there anything that 24 precipitated you stepping down as president and</p>

15 (Pages 54 - 57)

<p style="text-align: right;">Page 58</p> <p>1 becoming vice president? Was there some sort of 2 reason for that? 3 A. Yes. 4 Q. Can you enlighten us? 5 A. Craig Kassner -- I was president. I was 6 president for 16 years. Everybody knew me. 7 Everybody -- I signed the bottom of everybody's 8 check. To give Craig a little bit of a title behind 9 his name, we made him president. 10 Q. Okay. Do you still sign everybody's 11 checks as the vice president, or -- 12 A. Yes. 13 Q. -- does he sign it now? 14 Okay. So at -- and, again, correct 15 me if I'm wrong. But at some point in time, there's 16 either a request or there's an actual prepayment made 17 of anywhere from \$25- to \$150,000 when you're 18 negotiating these EPC contracts. At some point in 19 time, that contract gets executed, at least with the 20 12 to 14 we're talking about; is that fair? 21 A. Half of them, yeah. 22 Q. Well, I thought you said that the 12 to 23 14 we were talking about, they were all executed; is 24 that correct?</p>	<p style="text-align: right;">Page 60</p> <p>1 A. No. 2 Q. So when is the next time a payment is 3 made by the owner after an EPC contract is executed? 4 A. Normally it's mobilization or start of 5 the project. 6 Q. Okay. And normally, when does that 7 occur? How long after the execution of the contract 8 itself? 9 A. Months normally, sometimes years. 10 Q. Do the contracts normally -- and I've 11 only seen, like, four or five of these contracts. 12 But normally, do they -- do they map out when 13 payments are going to be made by the owner to Spirit 14 Construction over time? 15 A. Yes. 16 Q. Okay. And that's in some sort of exhibit 17 at the end of the contract; is that correct? 18 A. No. That's usually payment terms in the 19 contract. 20 Q. In the actual -- okay. 21 A. Yeah. 22 Q. We've been talking about four EPC 23 contracts today. We've just been saying the ones 24 that are at issue in the complaint. I want to just</p>
<p style="text-align: right;">Page 59</p> <p>1 A. No. 2 Q. No? 3 A. Because -- "executed" meaning -- 4 Q. "Executed" meaning they were signed by 5 both parties. 6 A. Oh, I'm sorry. Yes, they were executed. 7 Q. Okay. 8 A. Not completed. 9 Q. And I'm not saying the project was built. 10 I'm saying that the contract itself was signed by 11 both parties when I say "executed." I'm sorry. 12 A. Yes. 13 Q. So in between the time where either a 14 request is made for some amount of money -- and I 15 think the numbers we're talking about right now have 16 been 25,000 to 150,000 -- to the time that the 17 contract itself is executed, but not necessarily that 18 the project is performed, are there any other 19 payments that are made to Spirit Construction by the 20 owner? 21 A. No. 22 Q. And then at the time the contract is 23 executed, is there another payment that's made by the 24 owner?</p>	<p style="text-align: right;">Page 61</p> <p>1 make sure we are talking about the same contracts 2 here. My understanding is that consent and 3 acknowledgement that you sign on behalf of Spirit 4 Construction that was attached to the pledge 5 agreement at issue here specifically referenced four 6 EPC contracts. Is that your understanding? 7 A. Yes. 8 Q. And my understanding is that it was, one, 9 for a paper plant in St. George, new construction; is 10 that correct, if you know? 11 A. There were four. 12 Q. There were four. But do you know -- you 13 don't know specifically which ones they were as you 14 sit here today without looking at the contract? 15 A. Without looking at the contract. 16 MR. LANGS: Give me a second here. 17 Can you mark this as Exhibit 2? 18 (Van Den Heuvel Deposition 19 Exhibit No. 2 marked as 20 requested.) 21 MR. ROMASHKO: This is the whole exhibit? 22 MR. LANGS: That's the pledge agreement, I 23 believe, and at the end, it has the consent and 24 acknowledgement.</p>

<p style="text-align: right;">Page 62</p> <p>1 BY MR. LANGS:</p> <p>2 Q. So what I've handed to you, Steve, is</p> <p>3 what I'm going to represent to you is the continuing</p> <p>4 pledge agreement that we've been talking about today</p> <p>5 with -- attached to it is -- are two -- well, let's</p> <p>6 get the names right.</p> <p>7 There's a Schedule A, which is</p> <p>8 called a "Notice of Assignment and Irrevocable</p> <p>9 Instructions" of Spirit that's signed by Ron Van Den</p> <p>10 Heuvel on behalf of Tissue Products Technology</p> <p>11 Corporation, which is also -- TPTC is what we've been</p> <p>12 calling them -- and also signed by Ron Van Den Heuvel</p> <p>13 on behalf of Partner Concepts Development, Inc.,</p> <p>14 which is what we've been calling PCDI here today.</p> <p>15 And then there's a Schedule B that's</p> <p>16 titled, "Acknowledgement of and Consent to</p> <p>17 Assignment," and that's the one that's signed by you,</p> <p>18 Steve Van Den Heuvel, on behalf of Spirit</p> <p>19 Construction Services as president; is that correct?</p> <p>20 A. That is what is in front of me.</p> <p>21 Q. And I apologize. There's also a second</p> <p>22 Schedule B that's also been signed by you, and it's</p> <p>23 got a note in the second paragraph where it says</p> <p>24 "34,000," and it's a handwritten note, I believe</p>	<p style="text-align: right;">Page 64</p> <p>1 projects now that I've pointed you out to them? Do</p> <p>2 you remember these projects? Do you remember these</p> <p>3 EPC contracts?</p> <p>4 A. Yes.</p> <p>5 Q. So one of them was for new construction</p> <p>6 at St. George, Utah, I believe. Is that your</p> <p>7 understanding?</p> <p>8 A. Yes.</p> <p>9 Q. Another one was for new construction in</p> <p>10 De Pere, Wisconsin; is that correct or no?</p> <p>11 A. That would have been upgrades and -- yes.</p> <p>12 Q. And new construction?</p> <p>13 A. And new construction, absolutely.</p> <p>14 Q. And then there was a Pennsylvania</p> <p>15 facility that was going to be new construction as</p> <p>16 well?</p> <p>17 A. That's correct.</p> <p>18 Q. And these are also the four EPC contracts</p> <p>19 that you signed on the same day that we were talking</p> <p>20 about earlier; is that correct?</p> <p>21 A. I was only given this page to sign. I</p> <p>22 did not --</p> <p>23 Q. That was a bad question by me. I think</p> <p>24 earlier today, we were talking about at some point in</p>
<p style="text-align: right;">Page 63</p> <p>1 signed by you. It says, "should be 340,000 instead</p> <p>2 of 34,000"; is that correct?</p> <p>3 A. Yes.</p> <p>4 Q. Now, as part of this continuing pledge</p> <p>5 agreement, there's four EPC contracts named. Is that</p> <p>6 your understanding as well? Let me see if I can find</p> <p>7 it.</p> <p>8 So if you look at Schedule A -- so</p> <p>9 that's going to be the first page after the signature</p> <p>10 page of the continuing pledge agreement. Are you</p> <p>11 there?</p> <p>12 A. Yes.</p> <p>13 Q. If you look at that first paragraph,</p> <p>14 about halfway down, it states, "four fixed price</p> <p>15 engineering procurement and construction agreements</p> <p>16 between Spirit Construction Services and ST Paper,</p> <p>17 LLC, for upgrades and construction."</p> <p>18 Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. And then it says for St. George, Utah,</p> <p>21 De Pere, Wisconsin, and Pennsylvania facilities.</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. Are you familiar with those</p>	<p style="text-align: right;">Page 65</p> <p>1 time, you signed these four EPC contracts that are</p> <p>2 referenced in this Schedule A; is that correct?</p> <p>3 A. Yes.</p> <p>4 Q. And did you sign all four of those</p> <p>5 contracts in the same day? I think we went through</p> <p>6 this, right?</p> <p>7 A. I don't --</p> <p>8 Q. You don't know?</p> <p>9 A. I don't know.</p> <p>10 MR. LANGS: So I have at least the three new</p> <p>11 construction contracts here, and maybe we can make</p> <p>12 these Exhibits 3, 4, and 5.</p> <p>13 (Van Den Heuvel Deposition</p> <p>14 Exhibit Nos. 3 through 5</p> <p>15 marked as requested.)</p> <p>16 MR. ROMASHKO: I'm sorry. Before we start,</p> <p>17 I'm just making a note of the Bates numbers so I can</p> <p>18 pull these up. Thank you.</p> <p>19 We've got St. George, Utah, as</p> <p>20 No. 3; Pennsylvania is No. 4; De Pere is No. 5.</p> <p>21 MR. LANGS: And we'll mark one more, No. 6.</p> <p>22 And I believe this is the upgrades.</p> <p>23</p> <p>24</p>

<p style="text-align: right;">Page 66</p> <p>1 (Van Den Heuvel Deposition 2 Exhibit No. 6 marked as 3 requested.) 4 MR. SPAHN: Which one do you have as No. 3 5 again? I'm sorry. 6 MR. ROMASHKO: St. George. 7 MR. LANGS: We'll start with that one and go 8 in order. 9 BY MR. LANGS: 10 Q. So I'm looking at what's been marked as 11 Exhibit 3. And this is a Fixed Price Engineering 12 Procurement and Construction Agreement between Spirit 13 Construction Services and ST Paper, LLC, for a 14 project at St. George, Utah. Do you agree? 15 A. Yes. 16 Q. Can you flip to the execution page where 17 I believe there should be some signatures? 18 A. Yes. 19 Q. And the execution page is Bates-stamped 20 SCS 95; is that correct? 21 A. Correct. 22 Q. Is that your signature there? 23 A. Yes, it is. 24 Q. And then it also has what purports to be</p>	<p style="text-align: right;">Page 68</p> <p>1 to be SCS 155. Do you agree? 2 A. Yes. 3 Q. And that's your signature, correct? 4 A. Yes. 5 Q. And it also has what purports to be 6 Sharad Tak's signature, correct? 7 A. Yes. 8 Q. And then No. 6 is the Oconto Falls and 9 De Pere, Wisconsin upgrades, correct? 10 A. Yes. 11 Q. And let's see if we've got any -- the 12 signature page is on SCS 35? 13 A. Yes. 14 Q. And that also has your signature, 15 correct? 16 A. Yes. 17 Q. All right. And that also has what 18 purports to be Sharad Tak's signature, correct? 19 A. Yes. 20 Q. And those four contracts -- well, let me 21 ask you this question. With respect to what's been 22 marked as Exhibit 6, which is entitled "Oconto Falls 23 and De Pere, Wisconsin Upgrades," this continuing 24 pledge agreement, the schedule that we were looking</p>
<p style="text-align: right;">Page 67</p> <p>1 Sharad Tak's signature for ST Paper. Do you agree 2 with that? 3 A. Yes. 4 Q. And I just kind of want to do the same 5 thing for the other two. So we've got, what -- 6 marked as Exhibit 5 here. That's De Pere, Wisconsin? 7 A. Yes. 8 Q. Can you go ahead and flip over to the 9 execution page of that one? I think that's Page 10 SCS 275. Do you agree? 11 A. Yes. 12 Q. And is that your signature on that page? 13 A. Yes. 14 Q. And it also has Sharad Tak or what 15 purports to be Sharad Tak's signature for ST Paper; 16 is that correct? 17 A. Yes. 18 Q. And then Exhibit No. 6, I think, is 19 Pennsylvania, correct? 20 A. Oconto Falls. 21 Q. What's 5 then? Is 5 Pennsylvania? 22 A. No. 4 is Pennsylvania. 23 Q. So we'll take a look at Exhibit No. 4, 24 which is Pennsylvania. That signature page is going</p>	<p style="text-align: right;">Page 69</p> <p>1 at that's been marked as, I believe, Exhibit No. 2, 2 if you look at Schedule A to there, when it's naming 3 the four EPC contracts, it just says "Upgrades." Is 4 this the contract you think is being referred to in 5 the continuing pledge agreement, Schedule A? 6 MR. ROMASHKO: Objection, form. 7 BY MR. LANGS: 8 Q. Is that your understanding or -- 9 A. I know that I signed four. So I signed 10 this -- I did not know what four they were. It 11 doesn't matter which four they were. 12 Q. Okay. So when you signed Schedule A to 13 the continuing pledge agreement, you knew that you 14 signed four EPC contracts; is that correct? 15 A. Yes. 16 Q. And to you, it didn't matter which ones 17 they were? 18 A. No. 19 Q. Okay. 20 MR. LANGS: Can we take a quick break here 21 for a second? 22 MR. ROMASHKO: Yeah. 23 (A short break was had.) 24</p>

<p style="text-align: right;">Page 70</p> <p>1 BY MR. LANGS:</p> <p>2 Q. Back on the record with you, Steve. We</p> <p>3 were looking at four EPC contracts, and we just went</p> <p>4 through signature pages on the contracts. Do you</p> <p>5 still have all four of those in front of you? And I</p> <p>6 think they were marked 3, 4, 5, and 6.</p> <p>7 A. Yes.</p> <p>8 Q. We were talking about what I think has</p> <p>9 been marked as Exhibit 6, which is the Oconto Falls</p> <p>10 and De Pere, Wisconsin, and then in parentheses</p> <p>11 "Upgrades"?</p> <p>12 A. Yes.</p> <p>13 Q. Were -- the upgrades on the Oconto Falls</p> <p>14 or the De Pere plant, were those ever completed by</p> <p>15 Spirit Construction Services?</p> <p>16 A. Portions on the Oconto Falls.</p> <p>17 Q. Portions on the Oconto Falls. Okay. I</p> <p>18 think that's where I'm a little confused. But you</p> <p>19 may not have the answer. But if you don't, that's</p> <p>20 fine.</p> <p>21 Is it your understanding that this</p> <p>22 EPC contract that includes Oconto Falls and De Pere,</p> <p>23 Wisconsin, is one of the EPC contracts referred to in</p> <p>24 the continuing pledge agreement, Schedule A?</p>	<p style="text-align: right;">Page 72</p> <p>1 Q. Right. Did you sign it?</p> <p>2 MR. ROMASHKO: Objection, form.</p> <p>3 Did he sign what?</p> <p>4 BY MR. LANGS:</p> <p>5 Q. Did you sign what's been marked as</p> <p>6 Exhibit 2, Schedule B -- what's attached to</p> <p>7 Schedule B to Exhibit 2?</p> <p>8 A. I did sign Schedule B.</p> <p>9 Q. And when did you sign Schedule B?</p> <p>10 A. March 28th, 2007.</p> <p>11 Q. Okay. So you at least saw Schedule B on</p> <p>12 March 28, 2007, when you signed it; is that correct?</p> <p>13 A. Schedule B, yes.</p> <p>14 Q. Oh. You never saw the continuing pledge</p> <p>15 agreement is what you're saying?</p> <p>16 A. Correct.</p> <p>17 Q. So when you signed Schedule B, what's</p> <p>18 referenced as the continuing pledge agreement, you</p> <p>19 weren't --</p> <p>20 MR. ROMASHKO: Objection --</p> <p>21 (Simultaneous colloquy.)</p> <p>22 MR. ROMASHKO: -- form and foundation.</p> <p>23 THE COURT REPORTER: I didn't get that.</p> <p>24</p>
<p style="text-align: right;">Page 71</p> <p>1 MR. ROMASHKO: Objection, foundation. You've</p> <p>2 never established the witness has actually reviewed</p> <p>3 that before today.</p> <p>4 MR. LANGS: I think he said he did review it</p> <p>5 this morning when I first -- the first question I</p> <p>6 asked him, I think he said he reviewed this before</p> <p>7 the deposition. But the objection is noted.</p> <p>8 BY MR. LANGS:</p> <p>9 Q. Let me -- and we'll start there. Have</p> <p>10 you ever seen this continuing pledge agreement before</p> <p>11 that has -- I think we went through this, but maybe</p> <p>12 we didn't.</p> <p>13 The continuing pledge agreement that</p> <p>14 also has Schedule A and B attached to it with your</p> <p>15 signatures on Schedule B, you've seen that, correct?</p> <p>16 A. Before 2008, I had not.</p> <p>17 Q. Correct. So in 2008, you saw it, right,</p> <p>18 when you signed it?</p> <p>19 A. No, I did not.</p> <p>20 Q. Well, you never saw it. You didn't</p> <p>21 negotiate it, but you did sign it in 2008; is that</p> <p>22 correct?</p> <p>23 A. I seen it -- at my last deposition was</p> <p>24 the first time I seen it.</p>	<p style="text-align: right;">Page 73</p> <p>1 BY MR. LANGS:</p> <p>2 Q. When you signed Schedule B, which is</p> <p>3 entitled "Acknowledgement of and Consent to</p> <p>4 Assignment," and Schedule B is attached to what I've</p> <p>5 marked as Exhibit 2 for purposes of your deposition,</p> <p>6 you never looked at the continuing pledge agreement</p> <p>7 when you signed Schedule B; is that correct?</p> <p>8 A. Correct.</p> <p>9 Q. And you never looked at the EPC contracts</p> <p>10 that are referenced in Schedule B when you signed</p> <p>11 Schedule B; is that correct?</p> <p>12 A. I had signed them before I signed this.</p> <p>13 So, yes, I had seen four EPC contracts. That's why I</p> <p>14 allowed it.</p> <p>15 Q. Okay. And my question for you is, when</p> <p>16 you signed Schedule B on March 28th, 2007, was it</p> <p>17 your understanding -- or if you don't remember,</p> <p>18 that's fine -- that what's been marked as Exhibit</p> <p>19 No. 6 to your deposition, which is the EPC contract</p> <p>20 for Oconto Falls and De Pere, Wisconsin upgrades, was</p> <p>21 it your understanding that this contract that's in</p> <p>22 front of you was one of the EPC contracts referenced</p> <p>23 in Schedule B which you signed on March 28, 2007?</p> <p>24 A. Yes.</p>

<p style="text-align: right;">Page 74</p> <p>1 Q. Okay.</p> <p>2 A. I signed two other ones also. The four</p> <p>3 did not matter, what it is, signing this pledge</p> <p>4 agreement.</p> <p>5 Q. Okay.</p> <p>6 A. Of the six that I signed for Ron, I</p> <p>7 don't.</p> <p>8 Q. So you signed another two EPC contracts</p> <p>9 besides the four in front of you for Ron at some</p> <p>10 point in time; is that correct?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. Do you remember what those EPC</p> <p>13 contracts entailed or what those products were?</p> <p>14 A. The Maryland that you showed me</p> <p>15 previously and an Oconto Falls Tissue upgrade.</p> <p>16 Q. And that's a different Oconto Falls</p> <p>17 Tissue upgrade than the one that's in front of you</p> <p>18 that's been marked as Exhibit 6; is that correct?</p> <p>19 A. It's a portion of it.</p> <p>20 Q. Okay. I want to mark one more agreement,</p> <p>21 Exhibit No. 7. And this one is entitled "Fixed Price</p> <p>22 Engineering Procurement and Construction Agreement</p> <p>23 Between Spirit Construction Services and ST Paper II,</p> <p>24 LLC, at De Pere, Wisconsin." It's also referenced on</p>	<p style="text-align: right;">Page 76</p> <p>1 marked as Exhibit No. 5, right here (indicating); is</p> <p>2 that correct, or are these two different projects?</p> <p>3 A. They'd be two different contracts.</p> <p>4 Q. I understand they're two different</p> <p>5 contracts, but are they for the same project and</p> <p>6 different versions of the same project, or are they</p> <p>7 two different projects?</p> <p>8 A. I would have to really go through it.</p> <p>9 Q. Sure. Sure.</p> <p>10 A. I would -- I would think, yes, De Pere</p> <p>11 and -- would be for the same site.</p> <p>12 Q. For the same site?</p> <p>13 A. Different scope.</p> <p>14 Q. Different scope.</p> <p>15 Okay. And let's back up a second.</p> <p>16 The first contract which has been, I believe, marked</p> <p>17 as Exhibit 5; is that right? Yeah, Exhibit 5 right</p> <p>18 in front of you. That one is between Spirit</p> <p>19 Construction Services and ST Paper, LLC. And then</p> <p>20 what's been marked as Exhibit 7 -- and that's the --</p> <p>21 what's been marked as the execution version of a</p> <p>22 contract for the De Pere plant. That one is between</p> <p>23 Spirit Construction Services and ST Paper II, LLC.</p> <p>24 Do you see that?</p>
<p style="text-align: right;">Page 75</p> <p>1 the title page as the execution version, and there's</p> <p>2 a date of March 6th, 2008. And, again, we're going</p> <p>3 to mark this one as Exhibit 7.</p> <p>4 (Van Den Heuvel Deposition</p> <p>5 Exhibit No. 7 marked as</p> <p>6 requested.)</p> <p>7 MR. ROMASHKO: Is that Bates 426?</p> <p>8 MR. LANGS: This is actually Bates 297.</p> <p>9 MR. ROMASHKO: Thanks.</p> <p>10 MR. LANGS: Which it also -- it might be 426.</p> <p>11 I don't know if there's a dupe in there, but the one</p> <p>12 I'm looking at is -- it starts with 297.</p> <p>13 BY MR. LANGS:</p> <p>14 Q. The contract that's been marked for</p> <p>15 purposes of your deposition as Exhibit 7, there's a</p> <p>16 signature page on Bates stamp SCS 349. Do you see</p> <p>17 that?</p> <p>18 A. Yes.</p> <p>19 Q. You also signed this contract; is that</p> <p>20 correct?</p> <p>21 A. Yes.</p> <p>22 Q. This seems to me -- and correct me if I'm</p> <p>23 wrong -- a later version of the De Pere, Wisconsin</p> <p>24 EPC contract that I gave you previously that has been</p>	<p style="text-align: right;">Page 77</p> <p>1 A. Yes.</p> <p>2 Q. Do you know what the difference between</p> <p>3 ST Paper, LLC, and ST Paper II, LLC, is --</p> <p>4 A. No.</p> <p>5 Q. -- as you sit here today?</p> <p>6 A. No.</p> <p>7 Q. Is it your understanding that Sharad Tak</p> <p>8 is the owner of both of those companies as you sit</p> <p>9 here today?</p> <p>10 MR. ROMASHKO: Objection, foundation.</p> <p>11 BY THE WITNESS:</p> <p>12 A. Only that he signed --</p> <p>13 Q. Only that he signed for. Okay.</p> <p>14 A. -- for that company.</p> <p>15 Q. I believe what you're saying is that</p> <p>16 these two EPC contracts were for a different scope of</p> <p>17 work; is that correct?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And do you know whether -- the</p> <p>20 contract that's been marked as Exhibit 5, do you know</p> <p>21 if that scope of work was ever completed?</p> <p>22 A. No, it was not.</p> <p>23 Q. Do you know if -- the scope of work</p> <p>24 that's outlined in what's been marked as Exhibit 7,</p>

<p style="text-align: right;">Page 78</p> <p>1 do you know if that scope of work was ever completed?</p> <p>2 A. No, I do not.</p> <p>3 Q. You don't know if it was or...</p> <p>4 A. No.</p> <p>5 Q. No, it wasn't completed, or, no, you</p> <p>6 don't know?</p> <p>7 A. I don't believe any of it was completed.</p> <p>8 Q. Okay. If you look at -- again, we're</p> <p>9 still on what's been marked as Exhibit 5. If you</p> <p>10 look at the exhibits to that contract -- and I'm</p> <p>11 looking at, specifically, SCS 282.</p> <p>12 A. Yes.</p> <p>13 Q. That's called -- that's Exhibit D to the</p> <p>14 contract, and it's titled "Subcontractors." Do you</p> <p>15 see that?</p> <p>16 A. Correct.</p> <p>17 Q. And one of the subcontractors listed</p> <p>18 there is Tissue Product Technology Company. Do you</p> <p>19 see that?</p> <p>20 A. Yes.</p> <p>21 Q. If you look at the -- a similar exhibit,</p> <p>22 Exhibit D, "Subcontractors," the execution version</p> <p>23 that's been marked as Exhibit 7, that's going to be</p> <p>24 SCS Page -- or SCS No. 356. Are you there? No, not</p>	<p style="text-align: right;">Page 80</p> <p>1 acting as the general contractor on that project; is</p> <p>2 that correct?</p> <p>3 A. We were listed as the -- yes, I signed it</p> <p>4 as the general contractor.</p> <p>5 Q. And the general contractor is usually</p> <p>6 responsible for hiring subcontractors on the project;</p> <p>7 is that correct?</p> <p>8 A. Yes.</p> <p>9 Q. So my question for you is, is there any</p> <p>10 reason why you didn't hire or you weren't looking to</p> <p>11 hire Tissue Products Technology Company with respect</p> <p>12 to the execution version which has been marked as</p> <p>13 Exhibit 7 to your deposition?</p> <p>14 MR. ROMASHKO: Objection, foundation. That's</p> <p>15 not what the document says.</p> <p>16 BY THE WITNESS:</p> <p>17 A. Again, I did not create this contract.</p> <p>18 I'm okay with the contract. I did not create it.</p> <p>19 So, no, I do not know why they changed.</p> <p>20 Q. Who created the contract?</p> <p>21 A. Usually it's the owner, ST Paper.</p> <p>22 Q. So usually when you're executing an EPC</p> <p>23 contract as a general contractor, the owner is</p> <p>24 picking the subcontractors on the project?</p>
<p style="text-align: right;">Page 79</p> <p>1 yet.</p> <p>2 A. Okay.</p> <p>3 Q. That one doesn't include Tissue Products</p> <p>4 Technology Company. Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. Is there any reason that that one doesn't</p> <p>7 include Tissue Products Technology Company?</p> <p>8 MR. ROMASHKO: Objection, foundation.</p> <p>9 BY THE WITNESS:</p> <p>10 A. It's not my document.</p> <p>11 Q. Well, it's a contract that you signed; is</p> <p>12 that correct?</p> <p>13 A. Yes.</p> <p>14 Q. And it's a contract where you are the</p> <p>15 construction services. You're the general on this</p> <p>16 project; is that correct?</p> <p>17 A. Can you reask the question, please?</p> <p>18 Q. For purposes of --</p> <p>19 A. The first question.</p> <p>20 Q. For purposes of this March 6th, 2008</p> <p>21 execution version, you signed it on behalf of Spirit</p> <p>22 Construction Services; is that correct?</p> <p>23 A. Yes.</p> <p>24 Q. And Spirit Construction Services was</p>	<p style="text-align: right;">Page 81</p> <p>1 A. And we agree with them.</p> <p>2 Q. Okay.</p> <p>3 A. Yes.</p> <p>4 Q. Do you ever get recommendations as to</p> <p>5 which subcontractors you'd like to use?</p> <p>6 A. Yes.</p> <p>7 Q. Did you do that in this case?</p> <p>8 A. No.</p> <p>9 Q. In this case, ST Paper II or ST Paper I,</p> <p>10 LLC, came to you with a contract as it was written</p> <p>11 and you just signed it; is that correct?</p> <p>12 A. I was okay with it, so I signed it as it</p> <p>13 was, yes.</p> <p>14 Q. Did you negotiate any of the terms in</p> <p>15 these two contracts?</p> <p>16 A. Yes.</p> <p>17 Q. One more thing. With respect to what's</p> <p>18 been marked as Exhibit No. 7, is that one of the six</p> <p>19 EPC contracts you were talking about earlier that Ron</p> <p>20 came to you to sign or --</p> <p>21 A. Okay. There's seven.</p> <p>22 Q. Seven. I got you. So that's another one</p> <p>23 that Ron came to you to sign; is that correct?</p> <p>24 A. Correct.</p>

<p style="text-align: right;">Page 82</p> <p>1 Q. Okay. And I'm still a little bit 2 unclear, and maybe it is that you don't know. And 3 maybe you do. I'm not sure. Is this one that's been 4 marked as Exhibit No. 5, which is the Oconto Falls 5 and De Pere, Wisconsin upgrades contract -- to the 6 best of your knowledge as you sit here today, is that 7 one of the contracts that is specified in Schedule B 8 that's attached to the continuing pledge agreement 9 that we've been talking about today?</p> <p>10 MR. ROMASHKO: Objection, form and 11 foundation.</p> <p>12 BY MR. LANGS:</p> <p>13 Q. If you know. If you don't know, that's 14 fine.</p> <p>15 A. I don't know.</p> <p>16 Q. And you did say that at some point in 17 time, Spirit Construction Services did perform some 18 sort of work -- some sort of upgrade work on the 19 De Pere plant; is that correct?</p> <p>20 A. No. On the Oconto Falls plant.</p> <p>21 Q. Okay. One last EPC contract. And this 22 will be the last one, I promise.</p> <p>23 MR. LANGS: We're going to mark this one as 24 -- I believe -- what are we on, 8?</p>	<p style="text-align: right;">Page 84</p> <p>1 Q. Is that your signature on this contract?</p> <p>2 A. Yes, it is.</p> <p>3 Q. Okay. And it looks to also be signed by 4 a Mr. Sunil Kanuga from Doubletree; is that correct?</p> <p>5 A. Yes.</p> <p>6 Q. If you look at two more pages, it's 7 Page 12 of 22 of the contract and it's SCS 558. It's 8 titled "Appendix B, Payment Schedule."</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. And there's a number of payments listed, 12 1 through 16, on that page. The first payment is 13 specified as a down payment, and the date for that 14 down payment is July 14th, 2006. Do you see that?</p> <p>15 A. Correct.</p> <p>16 Q. Do you know if Spirit Construction 17 Services ever got paid that down payment with respect 18 to this project?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. There's also right -- right below 21 that, there's a number 2 -- payment number 2. It's 22 dated July 31st, 2006, and it's -- the construction 23 milestone is signed contract. Do you see that?</p> <p>24 A. Yes.</p>
<p style="text-align: right;">Page 83</p> <p>1 THE REPORTER: We are on 8.</p> <p>2 MR. LANGS: And I'm handing it to the court 3 reporter to mark. It's a contract with a cover page. 4 It's Bates number SCS 545, and it's dated July 13th, 5 2006, to a Mr. Sunil Kanuga, if I'm pronouncing that 6 correctly.</p> <p>7 (Van Den Heuvel Deposition 8 Exhibit No. 8 marked as 9 requested.)</p> <p>10 BY MR. LANGS:</p> <p>11 Q. So you have what's in front of you what's 12 been marked as Exhibit 8; is that correct?</p> <p>13 A. Correct.</p> <p>14 Q. And are you familiar with this document?</p> <p>15 A. Yes.</p> <p>16 Q. What is this document?</p> <p>17 A. This is a contract between Spirit 18 Construction and Doubletree Paper Company.</p> <p>19 Q. Is this an EPC contract?</p> <p>20 A. Yes.</p> <p>21 Q. I'm looking at the signature page, which 22 is SCS 556, Page 10 of 22 of the contract. Are you 23 there?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 85</p> <p>1 Q. And that amount is \$1,627,000 -- let me 2 back up.</p> <p>3 That amount is \$1,627,920. Do you 4 see that?</p> <p>5 A. Yes.</p> <p>6 Q. Do you know if Spirit Construction 7 Services ever was paid that amount with respect to 8 this project?</p> <p>9 A. Yes.</p> <p>10 Q. Do you know whether those two payments 11 were made on the date specified in this contract?</p> <p>12 A. I would say they were close to the 13 30 days after the 7/31, yes.</p> <p>14 Q. Okay.</p> <p>15 A. And I don't know when the 7/14 -- I would 16 believe that it would probably have been on the same 17 day.</p> <p>18 Q. Is this one of the EPC contracts we were 19 talking about earlier that you did 12 to 14 EPC 20 contracts between 2005 and 2012? Is this one of 21 those contracts?</p> <p>22 A. Yes.</p> <p>23 Q. When we were talking about a payment that 24 was going to occur before the execution of an EPC</p>

<p style="text-align: right;">Page 86</p> <p>1 contract where I believe you had said it was 2 somewhere in between \$25- to \$150,000, is this 3 \$300,000 payment that payment that we were talking 4 about earlier? 5 A. No. 6 Q. Okay. Is a down payment similar to the 7 one that's in this contract, is that something that 8 was usual for Spirit Construction Services when they 9 were signing one of these EPC contracts? 10 A. Some had them in, some didn't. If we can 11 negotiate them in, yes, we add them in. If we 12 couldn't negotiate them in, then whatever the 13 contract said, that's what we did. 14 Q. Okay. Of the 12 to 14 contracts that 15 we've been talking about today, how many of those do 16 you think had a down payment written into the 17 contract? 18 MR. ROMASHKO: Objection, calls for 19 speculation. 20 BY THE WITNESS: 21 A. I don't know. 22 Q. You don't know? 23 A. I don't know. 24 Q. Do you know if it was more than just this</p>	<p style="text-align: right;">Page 88</p> <p>1 bit today that your brother Ron has been involved in 2 some criminal proceedings; is that correct? 3 A. Yes. 4 Q. Are those criminal proceedings, do they 5 have anything to do with his business practices over 6 the -- 7 MR. ROMASHKO: Object to form and foundation. 8 BY THE WITNESS: 9 A. I don't know. I stay away. 10 Q. Would you consider your brother Ron to 11 have a good business reputation? 12 MR. ROMASHKO: Object to form. 13 BY THE WITNESS: 14 A. That's an opinion. 15 Q. Do you have an opinion either way? 16 A. My opinion? 17 Q. I'm asking for your opinion, correct. 18 A. In some things, he's very good. In other 19 things, he's not very good in. 20 Q. Would you -- how many -- strike that. 21 Sitting here today -- because at 22 some point in time, IFC Corporation lent some money 23 to your brother Ron; is that fair? 24 MR. ROMASHKO: Object to form and foundation.</p>
<p style="text-align: right;">Page 87</p> <p>1 contract? 2 A. I don't. I would need to see it. 3 Q. With respect to the 12 to 14 contracts 4 that we've been talking about today between 2005 and 5 2006 -- or I'm sorry -- 2005 and 2012, how many of 6 those contracts, do you know -- if you know, had an 7 amount due on -- with execution of the contract? 8 A. I don't know. 9 Q. Okay. Do you know whether or not the 10 four EPC contracts that we were just talking about 11 that have been marked Exhibits 3, 4, 5, and 6, do you 12 know whether or not any of those contracts had a down 13 payment amount? Well, I guess we -- do you know off 14 the top of your head whether any of them had a down 15 payment amount? 16 A. I do not know. 17 Q. You'd have to look; is that correct? 18 A. I'd have to look it up. 19 Q. Do you know whether any of those four 20 contracts off the top of your head had a payment that 21 was due on or around the execution day of those 22 contracts? 23 A. I don't know. I'd have to look them up. 24 Q. We've kind of been through it a little</p>	<p style="text-align: right;">Page 89</p> <p>1 I don't know that the witness knows that. 2 BY THE WITNESS: 3 A. The only thing is I signed that Ron was 4 willing to pay them the 3.4 or the 3.9, the two that 5 I did. So, yes, you -- he -- how he got what he got 6 from you, why he owed it to you, I don't know that. 7 But I know that he owed you money, yes. 8 Q. Okay. When you signed that Schedule B -- 9 and I think the date was March of 2007 or something 10 like that; is that correct? 11 A. March 28th, 2007. 12 Q. And when you signed that Schedule B, were 13 you aware that Ron Van Den Heuvel, your brother, owed 14 any other monies to any other parties? 15 MR. ROMASHKO: Object to form and foundation. 16 BY THE WITNESS: 17 A. I don't know his business. 18 Q. At that point in time, was Ron -- did he 19 have any ownership interest in Spirit Construction? 20 A. No. 21 Q. Okay. 22 A. His stocks were frozen. 23 Q. Okay. 24 A. So, yes, he had frozen stocks.</p>

<p style="text-align: right;">Page 90</p> <p>1 Q. What year did Ron's stocks get frozen?</p> <p>2 And when I say stocks, I mean his ownership interests</p> <p>3 in Spirit Construction Services.</p> <p>4 A. I believe it was 2002.</p> <p>5 Q. 2002. And why were Ron Van Den Huevel's</p> <p>6 ownership interests in Spirit Construction Services</p> <p>7 frozen in 2002?</p> <p>8 A. Because he was doing work outside of our</p> <p>9 companies and that went against our bylaws.</p> <p>10 Q. So in the bylaws of Spirit Construction</p> <p>11 Services, when someone with ownership interest</p> <p>12 performs work outside of Spirit Construction</p> <p>13 Services, do their stocks automatically get frozen?</p> <p>14 A. It's VHC.</p> <p>15 Q. It's VHC.</p> <p>16 A. He owned -- VHC is where they're frozen,</p> <p>17 not Spirit Construction.</p> <p>18 Q. Right. Right.</p> <p>19 A. And, yes, that is -- we need to know and</p> <p>20 then we make the decisions based on that. But Ron is</p> <p>21 the only one that it happened to.</p> <p>22 Q. Are there any other owners that have</p> <p>23 ownership interest in VHC that were doing work</p> <p>24 outside of the VHC umbrella?</p>	<p style="text-align: right;">Page 92</p> <p>1 that he had to make that decision?</p> <p>2 A. I have no idea, no.</p> <p>3 Q. When Ron came to you in 2007 with</p> <p>4 Schedule B that's attached to this continuing pledge</p> <p>5 agreement -- and, again, we've been through it, that</p> <p>6 when you signed it, you weren't looking at the</p> <p>7 continuing pledge agreement; you were only looking at</p> <p>8 Schedule B. When he came to you with Schedule B,</p> <p>9 what did he tell you?</p> <p>10 A. He told me that he owed money to IFC and</p> <p>11 that if any of these projects came to fruition, that</p> <p>12 I would owe -- Spirit Construction would owe this</p> <p>13 money to IFC before he could -- before it would go to</p> <p>14 him.</p> <p>15 Q. And we've already been through this. But</p> <p>16 those EPC contracts listed his companies as</p> <p>17 subcontractors; is that correct?</p> <p>18 A. Correct.</p> <p>19 Q. But Spirit Construction didn't list them</p> <p>20 themselves. They were listed by the owner; is that</p> <p>21 correct?</p> <p>22 A. That's correct.</p> <p>23 Q. Okay. But Spirit Construction did agree</p> <p>24 to use those subcontractors when they executed those</p>
<p style="text-align: right;">Page 91</p> <p>1 A. At that time, Bill Bain was, but he has</p> <p>2 quit when we told him that it was not allowed, that</p> <p>3 we brought it up.</p> <p>4 Q. So at that point in time, when the board</p> <p>5 of directors or the shareholders found out that he</p> <p>6 was doing work outside of the VHC umbrella, it was</p> <p>7 pointed out to him and he quit doing that work</p> <p>8 outside of the VHC umbrella rather than have his</p> <p>9 ownership interest frozen; is that correct?</p> <p>10 A. He was given a choice.</p> <p>11 Q. Okay. Was Ron also given that choice?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And he chose to have his ownership</p> <p>14 interest frozen; is that correct?</p> <p>15 A. He chose to do things outside of VHC.</p> <p>16 Q. Did you ever discuss with Ron as to why</p> <p>17 he made that decision?</p> <p>18 A. I was in Savannah, Georgia at the time,</p> <p>19 so I didn't.</p> <p>20 Q. You didn't talk to him over the phone</p> <p>21 about it?</p> <p>22 A. No. No. I have a large family, and I</p> <p>23 rely on my large family.</p> <p>24 Q. Do you know how Ron was notified in 2002</p>	<p style="text-align: right;">Page 93</p> <p>1 agreements; is that correct?</p> <p>2 A. Yes.</p> <p>3 Q. Did you -- when Ron came to you and you</p> <p>4 signed that Schedule B in March 2007, did you --</p> <p>5 before you signed that, did you discuss whether or</p> <p>6 not you should sign it with anybody else that's a</p> <p>7 shareholder or an officer at Spirit Construction?</p> <p>8 A. At VHC?</p> <p>9 Q. At VHC.</p> <p>10 A. Yes. I --</p> <p>11 Q. Or an officer of Spirit Construction.</p> <p>12 A. Or an officer, either one.</p> <p>13 Q. Yeah.</p> <p>14 A. I did with my brothers. I don't know who</p> <p>15 we talked about. But basically what it -- the</p> <p>16 discussion was -- is whether we were signing on to</p> <p>17 the monies owed or we were signing on to if these</p> <p>18 contracts would become valid, we would sign it.</p> <p>19 Q. Okay.</p> <p>20 A. And our consensus was -- is that this was</p> <p>21 not a -- this was a pledge agreement to IFC saying</p> <p>22 that if any of those contracts went ahead, we would</p> <p>23 pay them back before we paid any of Ron's companies</p> <p>24 or TPTC or PCDI.</p>

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1 Q. In March 2007, you had already executed
 2 those four EPC contracts with ST Paper before you
 3 signed that Schedule B; is that correct?
 4 A. Yes.
 5 Q. Okay. In March 2007 when you signed
 6 Schedule B, were you confident that those projects
 7 were going to go ahead and be completed?
 8 A. I sure hope they were. Absolutely.
 9 Q. With respect to those contracts, those
 10 EPC contracts and the projects, you know, in those
 11 contracts, what happened with those four projects?
 12 Why didn't they proceed?
 13 MR. ROMASHKO: Objection, form and
 14 foundation.
 15 BY THE WITNESS:
 16 A. What I was told is that they weren't
 17 funded.
 18 Q. Who told you that they weren't funded?
 19 A. If it was Ron or Sharad or -- I don't
 20 know.
 21 Q. When you signed those EPC contracts --
 22 scratch that question.
 23 After you signed -- after the four
 24 EPC contracts that we've been talking about that are

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1 Exhibits 3, 4, 5, and 6 today, after those were
 2 executed, how many conversations did you have with
 3 Sharad Tak?
 4 A. I don't know.
 5 Q. Did you ever speak with him again?
 6 A. I don't know. I don't -- I don't know.
 7 Q. Did you ever speak with your brother Ron
 8 about those projects again?
 9 A. Personally, just are they going to happen
 10 or not, yes or no? They were yes-or-no answers. I
 11 did not go into detail about any of them.
 12 Q. So you were -- when you had these
 13 conversations with Ron, you asked the question of Ron
 14 whether or not these projects were going to happen;
 15 is that correct?
 16 A. Yes.
 17 Q. And why is Ron, as a subcontractor, in a
 18 position to tell you, as a general and the person
 19 that executed the contract, whether or not these
 20 projects are going forward?
 21 MR. ROMASHKO: Objection, foundation.
 22 BY THE WITNESS:
 23 A. Because I did not have communication with
 24 Sharad. I didn't talk much to Sharad. So, yes, I

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1 had to get it from someplace, and he was the person.
 2 Q. Okay. Do you know if Sharad Tak ever
 3 tried to obtain financing in order to complete these
 4 projects?
 5 A. I have no idea.
 6 Q. Do you know -- did you ever have any
 7 conversations with Sharad Tak about whether or not he
 8 was going to obtain financing for those projects?
 9 A. I do not know his involvement in there.
 10 I do know that they were going out. Who was going
 11 out for financing, I don't know.
 12 Q. Okay. Was Spirit Construction Services
 13 ever paid any amount of money with respect to any of
 14 those four EPC contracts?
 15 A. No.
 16 Q. Did Spirit Construction Services ever pay
 17 out any amount of money in order to get to the
 18 execution stage for those contracts?
 19 A. Just our time.
 20 Q. Just your time.
 21 And with respect to the other eight
 22 to ten EPC contracts that Spirit Construction
 23 executed over the span of 2005, 2006 to 2012, did
 24 Spirit Construction Services ever expend any amount

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1 of its own money in getting to the execution stage of
 2 those contracts?
 3 A. Yes.
 4 Q. What percentage of those contracts?
 5 A. All of them.
 6 Q. All of them except for these four, except
 7 for the four that are in front of you?
 8 A. Time. Only time. We --
 9 Q. No money?
 10 A. Time and maybe a plane ticket.
 11 Q. Okay. And with respect to those 12 to 14
 12 contracts, is it usual that you would be asking your
 13 brother Ron whether or not the owner of those
 14 projects was going to obtain financing or not?
 15 A. None that he was not involved in.
 16 Q. Okay. Out of those 12 to 14 EPC
 17 contracts that Spirit executed over that time period,
 18 which is 2005 to 2012, were there any other EPC
 19 contracts in which you went through Ron to ask
 20 whether or not the owner of the project was going to
 21 be able to obtain financing?
 22 A. No.
 23 Q. Okay. So just these four; is that
 24 correct?

<p style="text-align: right;">Page 98</p> <p>1 A. Yes.</p> <p>2 Q. Okay. Well, maybe --</p> <p>3 A. Four --</p> <p>4 Q. Maybe those other seven.</p> <p>5 When we're talking about those 12 to</p> <p>6 14 EPC contracts between 2005 and 2012, are those</p> <p>7 extra three that Ron came to you and asked you to</p> <p>8 sign, are those included in that number or are we</p> <p>9 adding to that number?</p> <p>10 A. To me, I don't -- if it's seven or if</p> <p>11 it's four.</p> <p>12 Q. Okay.</p> <p>13 A. I have no problem.</p> <p>14 Q. It's a rough estimate, correct?</p> <p>15 A. Yes.</p> <p>16 Q. Exhibit 1, which is the answer, I'm going</p> <p>17 to get back to a couple questions on that one.</p> <p>18 A. Okay.</p> <p>19 Q. Paragraph 45 and Paragraph 46 on Page 12.</p> <p>20 A. Okay.</p> <p>21 Q. Paragraph 45 states, "Spirit, Steve, and</p> <p>22 Sharad never intended to build the projects</p> <p>23 contemplated by these four CPA EPC contracts," and</p> <p>24 Spirit defendants deny that allegation.</p>	<p style="text-align: right;">Page 100</p> <p>1 projects, they're the projects contemplated by</p> <p>2 Exhibits 3, 4, 5, and 6 that are in front of you. Is</p> <p>3 it fair to say that when you signed and executed</p> <p>4 those EPC contracts, you knew that whether or not</p> <p>5 those projects would ever be completed was going to</p> <p>6 depend on whether or not Ron, your brother, obtained</p> <p>7 financing for the projects? Is that something that's</p> <p>8 fair to say --</p> <p>9 MR. ROMASHKO: Objection --</p> <p>10 BY MR. LANGS:</p> <p>11 Q. -- or is that something that you knew, or</p> <p>12 is it not something that you knew?</p> <p>13 MR. ROMASHKO: Same objection.</p> <p>14 BY THE WITNESS:</p> <p>15 A. Somebody needed to fund them. So it's</p> <p>16 fair to say that they needed to be funded for them to</p> <p>17 go forward.</p> <p>18 Q. Was it your understanding that that</p> <p>19 person, when you executed the contracts, was going to</p> <p>20 be your brother Ron, or was it your understanding</p> <p>21 that it was going to be Sharad Tak, or was it your</p> <p>22 understanding it was going to be somebody else?</p> <p>23 A. I didn't care who it was.</p> <p>24 Q. I'm not sure it answered my question.</p>
<p style="text-align: right;">Page 99</p> <p>1 And Paragraph 46 states, "Spirit,</p> <p>2 Steve, and Sharad knew when they executed the four</p> <p>3 CPA EPC contracts that the four CPA EPC contracts</p> <p>4 would never be sufficient to secure financing for the</p> <p>5 projects the contracts contemplated." And then your</p> <p>6 response to that one is also a denial; is that</p> <p>7 correct?</p> <p>8 A. Yes.</p> <p>9 Q. And you're denying those because at the</p> <p>10 time you signed those contracts, you're saying that</p> <p>11 you did intend to build them; is that correct?</p> <p>12 A. Yes.</p> <p>13 Q. Is it fair to say that whether or not</p> <p>14 those contracts got completed depended on whether or</p> <p>15 not your brother Ron obtained financing for those</p> <p>16 projects?</p> <p>17 MR. ROMASHKO: Objection, foundation.</p> <p>18 BY THE WITNESS:</p> <p>19 A. Can you ask that again, please?</p> <p>20 Q. Sure. Sure.</p> <p>21 Is it fair to say -- and if it's</p> <p>22 not, let me know.</p> <p>23 Is it fair to say that with respect</p> <p>24 to these four projects -- and when I say those four</p>	<p style="text-align: right;">Page 101</p> <p>1 Did you have an understanding of --</p> <p>2 that it was going to be anyone, or did you just not</p> <p>3 have an understanding?</p> <p>4 A. I didn't know the total people involved.</p> <p>5 You said two names. You said Sharad and Ron. I</p> <p>6 don't know who the team was that was trying to get</p> <p>7 financing.</p> <p>8 Q. Okay.</p> <p>9 A. If there was an outside source. I don't</p> <p>10 know who they were.</p> <p>11 Q. When you executed the EPC contract with</p> <p>12 Sunil Kanuga -- which I believe that's the Doubletree</p> <p>13 PC contract -- did you know who was going to try to</p> <p>14 obtain financing for that project when you signed</p> <p>15 that one?</p> <p>16 A. I actually was with the owners at the</p> <p>17 bank.</p> <p>18 Q. When you signed the contract?</p> <p>19 A. Before I signed the contract.</p> <p>20 Q. Before you signed the contract?</p> <p>21 A. When I knew that there was going to be --</p> <p>22 they took me in to guarantee that there was financing</p> <p>23 for the project.</p> <p>24 Q. But Sharad Tak didn't do that with the</p>

<p style="text-align: right;">Page 102</p> <p>1 other four; is that correct?</p> <p>2 A. I would have hoped if they got to the end</p> <p>3 and somebody was going to lend them the money, that I</p> <p>4 would be involved at that point. We just didn't get</p> <p>5 to that point.</p> <p>6 Q. If you look at Paragraph 48, it's the</p> <p>7 next paragraph on Page 12. It says, "Alternatively,</p> <p>8 Spirit, Steve, and Sharad did not use and never</p> <p>9 intended to use TPTC and/or PCDI as subcontractors on</p> <p>10 the construction projects contemplated by the CPA EPC</p> <p>11 contracts despite the representations in the CPA EPC</p> <p>12 contracts."</p> <p>13 Did I read that one correctly?</p> <p>14 A. That is your question.</p> <p>15 Q. And your response is that "Spirit</p> <p>16 defendants admit only that neither TPTC nor PCDI was</p> <p>17 used as a subcontractor for any work performed under</p> <p>18 the referenced contracts."</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. And it also says you deny all their</p> <p>22 allegations in Paragraph 48. Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. Was any work ever performed under the</p>	<p style="text-align: right;">Page 104</p> <p>1 here today -- whether or not Sharad Tak and/or</p> <p>2 ST Paper I own and/or operate the Oconto Falls paper</p> <p>3 plant?</p> <p>4 MR. ROMASHKO: Objection, foundation.</p> <p>5 BY THE WITNESS:</p> <p>6 A. I don't know if -- I don't -- as of this</p> <p>7 day right now, if ST Paper I is the owner? I have no</p> <p>8 idea.</p> <p>9 Q. Do you know if Sharad Tak is the owner?</p> <p>10 A. I don't know what capacity. I know he</p> <p>11 still is involved.</p> <p>12 Q. He's involved with the -- with the</p> <p>13 operation over there; is that fair?</p> <p>14 MR. ROMASHKO: Objection, foundation.</p> <p>15 BY THE WITNESS:</p> <p>16 A. I don't know.</p> <p>17 Q. Where is the Oconto Falls paper plant?</p> <p>18 A. Oconto Falls, Wisconsin.</p> <p>19 Q. And where do you live right now?</p> <p>20 A. De Pere, Wisconsin.</p> <p>21 Q. Are those near each other?</p> <p>22 A. 45 minutes about.</p> <p>23 Q. And there's also a paper plant in</p> <p>24 De Pere; is that correct?</p>
<p style="text-align: right;">Page 103</p> <p>1 reference contracts by Spirit Construction?</p> <p>2 A. Under those contracts, no.</p> <p>3 Q. Right. And the reason I am asking is</p> <p>4 just because -- that your answer says -- it seems to</p> <p>5 imply that there was work performed. But my</p> <p>6 understanding is that there was no work ever</p> <p>7 performed.</p> <p>8 A. Not under those contracts.</p> <p>9 Q. If you take a look at Paragraph 52, which</p> <p>10 is on the next page, Page 13 of your answer, the last</p> <p>11 sentence of that paragraph, it says, "Sharad and</p> <p>12 ST Paper I still own and have continued to operate</p> <p>13 the Oconto Falls paper plant since this transaction</p> <p>14 was executed."</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. And then your response was to this -- and</p> <p>18 there was other allegations in the paragraph -- was</p> <p>19 that "The Spirit defendants lack sufficient knowledge</p> <p>20 and information to respond to the allegations in</p> <p>21 Paragraph 52."</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. Do you know whether or not, as you sit</p>	<p style="text-align: right;">Page 105</p> <p>1 A. That is correct.</p> <p>2 Q. Who owns that paper plant?</p> <p>3 A. Oh, there is not a paper plant in</p> <p>4 De Pere.</p> <p>5 Q. It never got built?</p> <p>6 A. I apologize. Eco-Fibre is in De Pere.</p> <p>7 Q. Who owns the Eco-Fibre? Do you know</p> <p>8 that?</p> <p>9 A. VHC.</p> <p>10 Q. Are VHC and ST Paper I or Sharad Tak</p> <p>11 competitors?</p> <p>12 A. No.</p> <p>13 Q. Is the Eco-Fibre plant a competitor with</p> <p>14 the Oconto Falls paper plant?</p> <p>15 A. Eco-Fibre has never run under our</p> <p>16 ownership. So, no, they're not competitors.</p> <p>17 Q. Okay. What do you mean when Eco-Fibre is</p> <p>18 never run -- under VHC's ownership, I think you're</p> <p>19 saying?</p> <p>20 A. Yes.</p> <p>21 Q. Under whose ownership is the Eco-Fibre</p> <p>22 plant being run?</p> <p>23 A. Eco-Fibre is not running.</p> <p>24 Q. Oh, it's not running?</p>

<p style="text-align: right;">Page 106</p> <p>1 A. No.</p> <p>2 Q. Was it ever running?</p> <p>3 A. Yes.</p> <p>4 Q. When did it stop running?</p> <p>5 MR. ROMASHKO: Objection, foundation.</p> <p>6 BY THE WITNESS:</p> <p>7 A. I don't know when it got shut down.</p> <p>8 Q. When the Eco-Fibre paper plant got shut</p> <p>9 down, was it running under VHC's ownership?</p> <p>10 A. No.</p> <p>11 Q. Do you know whose ownership it was</p> <p>12 running under?</p> <p>13 A. For sure, no.</p> <p>14 Q. Okay. Just correct me if I'm wrong. I'm</p> <p>15 a little confused. Was it ever running under VHC's</p> <p>16 ownership?</p> <p>17 A. No.</p> <p>18 Q. Was it ever running under Ron Van Den</p> <p>19 Huevel's ownership?</p> <p>20 A. I don't -- yes. Ron was involved. I</p> <p>21 don't know what the ownership was. You're asking for</p> <p>22 ownership. I don't know what the ownership -- they</p> <p>23 supplied pulp to ST Paper. That's the connection.</p> <p>24 Q. Was that work -- some of the work that</p>	<p style="text-align: right;">Page 108</p> <p>1 was that, "The Spirit defendants lack knowledge and</p> <p>2 information sufficient to respond to the allegations</p> <p>3 in paragraph 61."</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. And that's totally understandable. My</p> <p>7 question for you is, do you have any reason -- did</p> <p>8 Sharad Tak ever give you any reason or did Ron Van</p> <p>9 Den Heuvel ever give you any reason that these</p> <p>10 statements are incorrect?</p> <p>11 MR. ROMASHKO: Objection, form and</p> <p>12 foundation.</p> <p>13 BY THE WITNESS:</p> <p>14 A. I didn't talk to them about it.</p> <p>15 Q. Okay. Paragraph 64 -- we're getting</p> <p>16 there. It may be more 20 minutes.</p> <p>17 Paragraph 64. Can you read</p> <p>18 Paragraph 64 for me and let me know when you're done</p> <p>19 reading that one?</p> <p>20 A. (Reviewing exhibit.)</p> <p>21 Yes.</p> <p>22 Q. And I'll represent to you that the</p> <p>23 lawsuit that's in that paragraph, which is referred</p> <p>24 to as the second lawsuit IFC filed against the Ron</p>
<p style="text-align: right;">Page 107</p> <p>1 was involved with Ron's ownership interest in VHC</p> <p>2 being frozen?</p> <p>3 A. I don't know if that particular one was</p> <p>4 or not.</p> <p>5 Q. Okay. Give me a minute here. I'm just</p> <p>6 trying to shortcut a couple of these questions for</p> <p>7 everybody's sake.</p> <p>8 Could you take a look at</p> <p>9 Paragraph 61? And Paragraph 61 includes five</p> <p>10 subparagraphs, A through E. It's on Page 17 of the</p> <p>11 answer. I'm not going to read it out loud for the</p> <p>12 record, but could you just read that paragraph and</p> <p>13 those subparagraphs and let me know when you're</p> <p>14 finished?</p> <p>15 A. Okay.</p> <p>16 Q. And actually, could you take a look at</p> <p>17 the previous paragraph too? And you don't need to</p> <p>18 read the whole thing. But it just references that</p> <p>19 the meeting that Paragraph 61 is talking about, at</p> <p>20 least what the plaintiff is alleging in this case,</p> <p>21 occurred in March or April of 2007. Do you see that?</p> <p>22 MR. ROMASHKO: Objection, form.</p> <p>23 BY MR. LANGS:</p> <p>24 Q. Okay. And your answer to Paragraph 61</p>	<p style="text-align: right;">Page 109</p> <p>1 defendants and also against Spirit. That's the</p> <p>2 lawsuit we were talking about earlier in which you</p> <p>3 got deposed. Do you agree with that?</p> <p>4 A. Yes.</p> <p>5 Q. At some point in that lawsuit, the claim</p> <p>6 for a preliminary injunction against Spirit was</p> <p>7 dismissed. Do you agree with that?</p> <p>8 A. Yes.</p> <p>9 Q. What's your understanding as to why that</p> <p>10 claim was dismissed, if you have one?</p> <p>11 A. I don't.</p> <p>12 MR. ROMASHKO: Objection, form. It calls for</p> <p>13 a legal conclusion.</p> <p>14 BY MR. LANGS:</p> <p>15 Q. If you do have an opinion or an</p> <p>16 understanding, you can answer.</p> <p>17 A. I don't.</p> <p>18 Q. Okay. So you don't know why the claim</p> <p>19 for preliminary junction against Spirit was dismissed</p> <p>20 in that case; is that correct?</p> <p>21 MR. ROMASHKO: Asked and answered.</p> <p>22 BY THE WITNESS:</p> <p>23 A. I don't know.</p> <p>24 Q. Could you take a look at Paragraph 66 on</p>

<p style="text-align: right;">Page 110</p> <p>1 the next page?</p> <p>2 A. Okay.</p> <p>3 Q. That paragraph states, "On March 31st,</p> <p>4 2009, the Court in the second IFC lawsuit" -- and</p> <p>5 that's the lawsuit we were just talking about --</p> <p>6 "granted summary judgment to Spirit on IFC's loan</p> <p>7 claim against Spirit on the sole basis that IFC did</p> <p>8 not have standing to bring a claim against Spirit for</p> <p>9 injunctive relief at that time."</p> <p>10 Did I read that correctly?</p> <p>11 A. Yes.</p> <p>12 Q. And your response to that one was, "The</p> <p>13 Spirit defendants admit only that on March 31st,</p> <p>14 2009, the Court in the second IFC lawsuit granted</p> <p>15 summary judgment in favor of Spirit. All other</p> <p>16 allegations in Paragraph 66 reference a document</p> <p>17 which speaks for itself, and the Spirit defendants</p> <p>18 refer to this document for a true and complete</p> <p>19 statement of its contents and deny plaintiffs</p> <p>20 characterizations of the same."</p> <p>21 Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. I think you just answered this, but you</p> <p>24 don't have any different understanding as to what</p>	<p style="text-align: right;">Page 112</p> <p>1 Yes.</p> <p>2 Q. Okay. There's a little bit to unpack</p> <p>3 there. But Paragraph 72 alleges that the statements</p> <p>4 referenced in A, B, and C induced IFC into executing</p> <p>5 a settlement agreement. Do you agree that's what the</p> <p>6 allegation states?</p> <p>7 MR. ROMASHKO: Objection, form. It calls for</p> <p>8 a legal conclusion.</p> <p>9 BY THE WITNESS:</p> <p>10 A. I didn't write it, so I don't know what</p> <p>11 you're --</p> <p>12 Q. Okay. We'll move on, I guess, then.</p> <p>13 A. Okay.</p> <p>14 Q. With respect to just the statement in</p> <p>15 Subparagraph A, if you think anything in that</p> <p>16 statement is false, let me know.</p> <p>17 MR. ROMASHKO: Objection, form.</p> <p>18 BY THE WITNESS:</p> <p>19 A. No.</p> <p>20 Q. Same thing with B. Is there anything in</p> <p>21 Subparagraph B that you believe is false as you sit</p> <p>22 here today?</p> <p>23 MR. ROMASHKO: Objection, form. And we have</p> <p>24 the party's position on the record here already on</p>
<p style="text-align: right;">Page 111</p> <p>1 happened or as to why Spirit -- the claims against</p> <p>2 Spirit in that case were dismissed; is that correct?</p> <p>3 MR. ROMASHKO: Objection. It calls for a</p> <p>4 legal conclusion.</p> <p>5 BY MR. LANGS:</p> <p>6 Q. You can answer if you can.</p> <p>7 A. I rely on my attorneys.</p> <p>8 Q. You can rely on your attorneys, but he's</p> <p>9 just objecting. I do need an answer to the question</p> <p>10 if you have a different understanding or not. And</p> <p>11 you might not. That's fine.</p> <p>12 A. No.</p> <p>13 Q. Okay. Now we're into Page 20 of your</p> <p>14 answer. And underneath what's been labeled as "Count</p> <p>15 1, Negligent misrepresentation against Steve and</p> <p>16 Spirit." Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. Could you take a look and read</p> <p>19 Paragraph 72 and Subparagraphs A, B, and C and let me</p> <p>20 know when you're finished?</p> <p>21 A. (Reviewing exhibit.)</p> <p>22 I read A and B.</p> <p>23 Q. Did you read C on the next page?</p> <p>24 A. Okay. (Reviewing exhibit.)</p>	<p style="text-align: right;">Page 113</p> <p>1 the answer.</p> <p>2 MR. LANGS: And for the record, the reason</p> <p>3 I'm asking this question is the answer also includes</p> <p>4 the allegation that these statements induced IFC into</p> <p>5 executing the settlement agreement. I understand</p> <p>6 that they're denying that. What I'm asking the</p> <p>7 deponent here, as we sit here today, is whether he</p> <p>8 thinks that the statements in A, B, and C are false</p> <p>9 or not.</p> <p>10 BY MR. LANGS:</p> <p>11 Q. I'll reask the question. Just looking at</p> <p>12 the statement in Subparagraph B, do you believe that</p> <p>13 that statement is false?</p> <p>14 MR. ROMASHKO: Object to form.</p> <p>15 BY THE WITNESS:</p> <p>16 A. I don't know what your intent of the</p> <p>17 statement was. If you were saying that they were</p> <p>18 false statements --</p> <p>19 Q. No. I'm just asking whether the</p> <p>20 statements in B -- in Subparagraph B and Paragraph 72</p> <p>21 of your complaint, if you think that those statements</p> <p>22 are false as you sit here today.</p> <p>23 MR. ROMASHKO: Objection. It's not his</p> <p>24 complaint. It's also -- there are multiple</p>

<p style="text-align: right;">Page 114</p> <p>1 statements there. Are you sure you don't want to 2 just walk the witness through individual statements? 3 MR. LANGS: I mean, I can -- I can go through 4 it. I think it's one sentence, but sure. 5 BY MR. LANGS: 6 Q. I'll read it for the record. 7 Subparagraph B, Paragraph 72 of the answer. 8 Subparagraph B states, "Steve and Spirit stated that 9 after March 28, 2007, and until receipt by Steve and 10 Spirit of written notice to the contrary from IFC, 11 Spirit will pay all amounts due or to become due by 12 Spirit to TPTC and PCDI up to \$390,222 per month and 13 the aggregate amount of \$3,900,222 under the CPA EPC 14 contracts to IFC by making payment to IFC at 8700 15 North Waukegan Road, Suite 100, Morton Grove, 16 Illinois, 60053, or pursuant to such wire transfer 17 instructions as IFC may from time to time provide to 18 Spirit." And that statement is in Exhibit F to the 19 complaint, which is Schedule B to the consent -- 20 which is Schedule B which is also the consent and 21 acknowledgement to the continuing pledge agreement 22 we've been talking about today. 23 And all I'm asking you is whether or 24 not that statement is false, and the only reason I'm</p>	<p style="text-align: right;">Page 116</p> <p>1 Spirit owed IFC a duty to provide accurate 2 information related to the complex transaction 3 contemplated by the settlement agreement, Master 4 Lease Number 801109, master amendment agreement and 5 continuing pledge agreement." 6 And your response was that the 7 allegations in Paragraph 73 are legal conclusions to 8 which no response is required. To the extent a 9 response is required, Spirit defendants deny the 10 allegations to the extent they're inconsistent with 11 the applicable law. 12 Did I read that correctly? 13 A. Yes. 14 Q. And you've been the president of Spirit 15 Construction, or at least running things, for the 16 past 15, 20 years; is that correct? 17 A. Yes. 18 Q. And do you believe, that as the president 19 of Spirit Construction when you're negotiating 20 contracts, that you have a duty to tell the truth; is 21 that correct? 22 MR. ROMASHKO: Objection, form, and calls for 23 a legal conclusion. 24</p>
<p style="text-align: right;">Page 115</p> <p>1 asking you is because you denied all the allegations 2 in Paragraph 72. 3 MR. ROMASHKO: Objection to form. 4 BY THE WITNESS: 5 A. Paragraph 72 states that these were false 6 statements. They're not false statements. They're 7 true statements. 8 Q. That's my answer -- that's my question 9 for you. So your testimony is that Exhibit A -- the 10 statements in Subparagraph A are true? 11 A. Yes. 12 Q. Okay. The statements in Subparagraph B 13 are true; is that correct? 14 A. Yes. 15 Q. And the statements in Subparagraph 3 are 16 true? 17 MR. ROMASHKO: Objection to form. And you 18 said Subparagraph 3. 19 MR. LANGS: Subparagraph C. I'm sorry. 20 Maybe I was asking that question incorrectly. It 21 could be my fault. 22 BY MR. LANGS: 23 Q. The next paragraph. And I'll read that 24 one out loud. This is Paragraph 73. "Steve and</p>	<p style="text-align: right;">Page 117</p> <p>1 BY MR. LANGS: 2 Q. Your understanding is what I'm looking 3 for. I mean -- 4 A. You should always tell the truth. 5 Q. Okay. No. 77 at the bottom of Page 21. 6 Again, we're still looking at Spirit and Steve Van 7 Den Huevel's answer to the complaint in this case. 8 Paragraph 77 reads: "Indeed IFC would not have 9 entered into settlement agreement, Master Lease 10 No. 801109, master amended agreement and continuing 11 pledge agreement, without Steve and Spirit's signed 12 confirmation of the statements made in Schedule B to 13 the continuing pledge agreement." 14 Did I read that correctly? 15 A. Yes. 16 Q. And then your response with "The Spirit 17 defendants deny the allegations in Paragraph 77." 18 Did I read that correctly? 19 A. Yes. 20 Q. In your mind, why was your signature 21 requested? Why was your signature on the continuing 22 pledge -- the Schedule B to the continuing pledge 23 agreement, why was it even requested? 24 MR. ROMASHKO: Objection, form and</p>

<p style="text-align: right;">Page 118</p> <p>1 foundation.</p> <p>2 BY MR. LANGS:</p> <p>3 Q. What was the point of you signing that?</p> <p>4 A. I have no idea.</p> <p>5 Q. You only signed it because Ron asked you</p> <p>6 to sign it; is that right?</p> <p>7 A. Yes.</p> <p>8 Q. Paragraph 132 on Page 33 of the answer.</p> <p>9 Paragraph 132 states, "At all times relevant, Steve,</p> <p>10 Spirit, and Sharad understood the general objective</p> <p>11 of the conspiracy and agreed either explicitly or</p> <p>12 implicitly to do their respective parts to further</p> <p>13 the" --</p> <p>14 THE COURT REPORTER: I'm sorry. You're going</p> <p>15 too fast.</p> <p>16 BY MR. LANGS:</p> <p>17 Q. Let me just do it this way. Can you read</p> <p>18 132?</p> <p>19 A. I can read it.</p> <p>20 Q. And the Spirit defendants denied the</p> <p>21 allegations in Paragraph 132; is that correct?</p> <p>22 A. Yes.</p> <p>23 Q. And I understand that you deny that you</p> <p>24 had any agreement with Sharad and you didn't speak</p>	<p style="text-align: right;">Page 120</p> <p>1 Q. Okay. I think we're done with the</p> <p>2 answer. And I want to ask you a few more questions</p> <p>3 about your responses to our interrogatories and then</p> <p>4 I think the other attorneys here might have some</p> <p>5 questions for you and we'll get you out of here.</p> <p>6 Okay?</p> <p>7 MR. LANGS: I'm going to hand the court</p> <p>8 reporter what she'll mark as Exhibit No. 9. And</p> <p>9 these are Spirit Construction Services and Steven</p> <p>10 Van Den Heuvel responses to plaintiff's first set of</p> <p>11 interrogatories.</p> <p>12 (Van Den Heuvel Deposition</p> <p>13 Exhibit No. 9 marked as</p> <p>14 requested.)</p> <p>15 BY MR. LANGS:</p> <p>16 Q. Page 2 -- do you have it in front of you?</p> <p>17 A. Yes.</p> <p>18 MR. ROMASHKO: Hold on one second.</p> <p>19 MR. LANGS: Sure.</p> <p>20 BY MR. LANGS:</p> <p>21 Q. Well, I guess, first of all, can you flip</p> <p>22 through that and make sure that you're familiar with</p> <p>23 the document that's in front of you.</p> <p>24 And to help you out, I believe</p>
<p style="text-align: right;">Page 119</p> <p>1 with Sharad and things of that nature. But Steve and</p> <p>2 Spirit never paid IFC; is that correct?</p> <p>3 MR. ROMASHKO: Object to form and foundation.</p> <p>4 BY THE WITNESS:</p> <p>5 A. Yes, we never paid IFC.</p> <p>6 Q. There were never any payments that were</p> <p>7 going to be due to TPTC or PCDI and there were never</p> <p>8 any payments that -- scratch that question. We'll</p> <p>9 keep going.</p> <p>10 The EPC contracts that are</p> <p>11 referenced there, those projects were never built,</p> <p>12 correct?</p> <p>13 A. Yes.</p> <p>14 MR. ROMASHKO: Objection to form.</p> <p>15 Where are we referencing EPC</p> <p>16 contracts?</p> <p>17 MR. LANGS: Well, the ones that are in -- the</p> <p>18 ones that are -- we've been talking about all day</p> <p>19 today.</p> <p>20 BY MR. LANGS:</p> <p>21 Q. So the four EPC contracts we've been</p> <p>22 talking about today, those projects were never built;</p> <p>23 is that correct?</p> <p>24 A. The ones in Schedule B were never built.</p>	<p style="text-align: right;">Page 121</p> <p>1 Page 13 is titled "Verification," and I believe that</p> <p>2 your signature is on Page 13; is that correct?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. So you have seen this document</p> <p>5 before; is that correct?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. At some point in time, your</p> <p>8 attorney told you that you had to answer these</p> <p>9 questions, and you worked with your attorneys and you</p> <p>10 answered these questions and you signed that Page 13;</p> <p>11 is that correct?</p> <p>12 A. Yes.</p> <p>13 Q. Interrogatory No. 1, which is on Page 2,</p> <p>14 it just asks you to identify the individuals</p> <p>15 providing any information reflected here. You</p> <p>16 answered that you and also James Kellam helped with</p> <p>17 the answers to these interrogatories.</p> <p>18 Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. Does James Kellam have any ownership</p> <p>21 interest -- or he does in VHC. I see what you're</p> <p>22 saying. Okay. Never mind. That's a dumb question.</p> <p>23 Let's move on. I get VHC and Vos confused so much.</p> <p>24 Can you take a look at No. 2, which</p>

<p style="text-align: right;">Page 122</p> <p>1 starts on Page 2, and it basically -- I'm going to 2 shortcut it. But it basically asks you to identify 3 all the EPC contracts that you ever executed with 4 Spirit on one hand and Sharad Tak or one of his 5 affiliated companies on the other hand. 6 Do you see that? 7 MR. ROMASHKO: Objection to form. 8 BY THE WITNESS: 9 A. Okay. 10 Q. And I think -- you produced the EPC 11 contracts that you produced in this case; is that 12 correct? 13 A. Yes. 14 Q. So we've got the four we talked about, 15 right? And we also have that execution agreement 16 that we talked about that was dated in 2008. Do you 17 know what I'm talking about? So that's five, right? 18 A. Okay. 19 Q. Then I think you mentioned earlier, there 20 were a couple more that might have been executed that 21 Ron Van Den Heuvel might have brought to your 22 attention that you executed; is that correct? 23 MR. ROMASHKO: Objection to form and 24 misstates the testimony.</p>	<p style="text-align: right;">Page 124</p> <p>1 Q. And you have an objection there. But 2 then it also says, "Notwithstanding this objection, 3 defendants are aware of no responsive occurrences"; 4 is that correct? 5 A. Yes. 6 Q. So none of the other EPC contracts that 7 we've been talking about today -- and when I say EPC 8 contracts, I mean the ones that were actually 9 executed, those 12 to 14 contracts between 2005 to 10 2012. Do you understand? 11 A. Uh-huh. Yes. 12 Q. None of those other contracts or any 13 obligations or rights under those contracts were ever 14 used in the same way that they were used here with 15 the? 16 MR. ROMASHKO: Objection -- 17 BY MR. LANGS: 18 Q. -- acknowledgment agreement; is that 19 correct? 20 MR. ROMASHKO -- form, foundation, misstates 21 the interrogatory response. 22 BY MR. LANGS: 23 Q. Well, let me rephrase the question. It 24 might have been a bad one. Can you think of any</p>
<p style="text-align: right;">Page 123</p> <p>1 BY MR. LANGS: 2 Q. My question for you is, are there any EPC 3 contracts that you're aware of as you sit here today 4 that were executed with Sharad Tak or one of his 5 companies that you haven't produced yet, if you know? 6 A. I don't know. 7 Q. Okay. Did you give your attorneys all 8 the EPC contracts that Spirit Construction has in its 9 possession that were executed between Spirit 10 Construction Services and Sharad Tak or ST Paper? 11 A. To the best of my knowledge, yes. 12 Q. Okay. If you look at No. 3. No. 3 asks 13 for every EPC contract or other contractor agreement 14 identified in your answer to Interrogatory No. 2. 15 And, again, those are EPC contracts that Spirit 16 executed with Sharad Tak or ST Paper. It says, 17 "Please identify whether each particular EPC contract 18 or other contractor agreement identified was used as 19 collateral, as a guarantee, or as any other type of 20 assurance that any loan to Ron or a company 21 affiliated with Ron would be paid back if Ron or his 22 affiliated companies defaulted on a particular loan." 23 Do you see that? 24 A. Yes.</p>	<p style="text-align: right;">Page 125</p> <p>1 other instance where you or somebody else on behalf 2 of Spirit Construction Services signed a document 3 where you pledged money that was going to be owed to 4 a subcontractor to some other entity or party? And I 5 won't hold you to it. As you sit here today, if you 6 remember doing that or not is the question. 7 A. When we buy large pieces of equipment, we 8 guarantee that other company is going to get paid 9 when we get the service. 10 Q. Okay. So can you explain that a little 11 bit further? 12 A. So that is a question that has -- 13 Q. Sure. So can you -- 14 A. Yes. 15 Q. -- elaborate a little bit on that? 16 A. I do say in a lot of them that if we 17 are -- receive the service from somebody, we need to 18 pay them. 19 Q. Okay. Can you give me an example of what 20 you're talking about? 21 A. A third party, I -- are you asking a 22 third party, that I pay a third party, not the party 23 that's doing the work? 24 Q. Let's back up. Let's back up. I think</p>

<p style="text-align: right;">Page 126</p> <p>1 what you're trying to say -- and, again, correct me</p> <p>2 if I'm wrong -- is that you've signed documents that</p> <p>3 state that if a party or entity provided services for</p> <p>4 Spirit Construction, you agree to pay them?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. We're there. My question for you</p> <p>7 is, have you ever signed anything similar to this</p> <p>8 consent and acknowledgement whereby you agreed or</p> <p>9 Spirit Construction agreed to take payment that's due</p> <p>10 somebody for services given to Spirit Construction</p> <p>11 and paying it to a third party?</p> <p>12 MR. ROMASHKO: Objection, form.</p> <p>13 BY THE WITNESS:</p> <p>14 A. I have paid to a third party, but I have</p> <p>15 not stated in a contract that I would pay to a third</p> <p>16 party.</p> <p>17 Q. Understood. Okay. How did the idea come</p> <p>18 about -- in this case, in this scenario, how did the</p> <p>19 idea come about for you to sign that consent and</p> <p>20 acknowledgement? I think we've been through it. But</p> <p>21 it was Ron's idea; is that correct?</p> <p>22 A. Well, Ron asked me to sign it.</p> <p>23 Q. Ron asked you to sign it. You went back</p> <p>24 to your partners, and you discussed it and --</p>	<p style="text-align: right;">Page 128</p> <p>1 A. Executed as done or --</p> <p>2 Q. Not completed but signed. I use the word</p> <p>3 "executed" for signed.</p> <p>4 A. Yes.</p> <p>5 Q. Do you have any objection as you sit here</p> <p>6 today -- and, again, you can go to the attorney. Are</p> <p>7 you in possession of those contracts, the ones that</p> <p>8 weren't produced?</p> <p>9 A. It depends on the length of them because</p> <p>10 we only need to keep them for a --</p> <p>11 Q. Okay.</p> <p>12 A. -- certain amount of time. So I don't</p> <p>13 know which ones we have and which ones we don't have</p> <p>14 anymore.</p> <p>15 Q. If you signed any of the contracts in</p> <p>16 2005, would you be in possession of those contracts?</p> <p>17 MR. ROMASHKO: Objection, foundation.</p> <p>18 BY THE WITNESS:</p> <p>19 A. We're not required to keep them.</p> <p>20 Q. So you don't know if you're in possession</p> <p>21 of all of those contracts or not?</p> <p>22 A. I'm not sure.</p> <p>23 Q. Are you in possession of any of these EPC</p> <p>24 contracts we've been talking about that were not</p>
<p style="text-align: right;">Page 127</p> <p>1 A. I would say that whoever produced the</p> <p>2 thing -- the --</p> <p>3 Q. The continuing pledge agreement?</p> <p>4 A. To do -- the pledge agreement would have</p> <p>5 been the one that would have --</p> <p>6 Q. That's fair.</p> <p>7 Okay. No. 4. No. 4 is similar to</p> <p>8 No. 2, only it asked Spirit to identify every EPC</p> <p>9 contract executed between Spirit and any other party.</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. And I think in your answer, what the</p> <p>13 answer says -- and I'm summarizing, and correct me if</p> <p>14 I'm wrong -- is that you produced some of the EPC</p> <p>15 contracts, but you objected to producing them all; is</p> <p>16 that correct?</p> <p>17 A. Yes.</p> <p>18 Q. And I think we've kind of been through</p> <p>19 this. But there are -- somewhere in between those</p> <p>20 years, EPC contracts; is that correct, that were</p> <p>21 actually executed?</p> <p>22 MR. ROMASHKO: Objection, asked and answered.</p> <p>23 BY MR. LANGS:</p> <p>24 Q. Right?</p>	<p style="text-align: right;">Page 129</p> <p>1 produced?</p> <p>2 MR. ROMASHKO: Objection, foundation.</p> <p>3 BY THE WITNESS:</p> <p>4 A. Could be. I don't know.</p> <p>5 Q. You don't know. You'd have to go check?</p> <p>6 A. I'd have to go check.</p> <p>7 Q. I'll put on the record that as we're</p> <p>8 sitting here today that, you know, we're requesting</p> <p>9 that you don't dispose of those when you get back to</p> <p>10 the office today.</p> <p>11 A. I won't.</p> <p>12 Q. All right. Thank you.</p> <p>13 No. 6. No. 6 states, "For every EPC</p> <p>14 contract identified in your Answers to</p> <p>15 Interrogatories Nos. 2 and 4" -- and that's the EPC</p> <p>16 contracts we've just been talking -- "please itemize</p> <p>17 all fees, costs, and expenses incurred by Spirit</p> <p>18 and/or its affiliated companies during the</p> <p>19 negotiation and completion of each identified EPC</p> <p>20 contract," and then it goes on.</p> <p>21 And in your answer -- in this</p> <p>22 answer, you said that you're going to respond later,</p> <p>23 correct?</p> <p>24 A. Yes.</p>

<p style="text-align: right;">Page 130</p> <p>1 MR. LANGS: Let's get one more exhibit going 2 here. So we're on 10. 10 is defendant's first 3 supplemental responses to plaintiff RNS Service's 4 first set of interrogatories to defendants, and 5 specifically, it's -- an additional response to No. 6 6 is what we're talking about. So this is going to be 7 marked as Exhibit No. 10. And I'll also represent 8 that a document that was produced as an answer in 9 these interrogatories is also attached to this 10 exhibit. 11 (Van Den Heuvel Deposition 12 Exhibit No. 10 marked as 13 requested.) 14 BY MR. LANGS: 15 Q. So this one is not signed by you. But 16 have you ever seen this document? And when I say 17 "this document," I mean the supplemental responses. 18 A. I can't answer that. 19 Q. That's fine. 20 A. I've seen a lot of documents. 21 Q. The better answer would be you're not 22 sure? 23 A. I'm not sure. That's right. 24 Q. If you look at the answer -- and the</p>	<p style="text-align: right;">Page 132</p> <p>1 correct? 2 A. Yes. Came off of... 3 Q. And at the top of the spreadsheet, 4 there's titles for the columns, for lack of a better 5 word, and they say Vendor Description, Cost Exempt, 6 and so on. Do you see that? 7 A. Yes. 8 Q. When it says cost and exempt, can you 9 explain to me what those numbers mean? 10 A. The cost would be what it costs to do 11 that. Exempt means whether it was exempt from tax or 12 not exempt from tax. 13 Q. If a cost is listed in a spreadsheet, 14 does that mean that Spirit Construction Services 15 received payment for that cost, or does that mean 16 something else? 17 A. I'm sorry. Can you repeat? 18 Q. Well, in the cost column where it lists 19 the price for what looks like was the description 20 that some vendor -- some service a vendor provided 21 or -- 22 A. Yes. 23 Q. Is the fact that it's listed in this 24 document, does that mean that Spirit Construction was</p>
<p style="text-align: right;">Page 131</p> <p>1 answer was provided to us by your attorneys at 2 least -- it says, "Subject to the previously stated 3 objections, defendants hereby produce pursuant to 4 Rule 33(d) of the Federal Rules of Civil Procedure 5 documents Bates-numbered SCS 4818 through 4828." 6 Do you see that? 7 A. Yes. 8 Q. And then there's another document right 9 behind the one that I gave you. That's SCS 4818; is 10 that correct, at least the first page? 11 A. Yes. 12 Q. Can you describe to me or kind of walk me 13 through what this document is? 14 MR. ROMASHKO: Objection, foundation. 15 BY MR. LANGS: 16 Q. And when I say this document, I mean the 17 document in your hand that is SCS 4818 through SCS 18 4828. 19 A. This is a Spirit Construction document 20 where we use to track our jobs to see how we came out 21 on the project. 22 Q. And if you kind of flip through the 23 pages, as it goes on, there's -- well, it looks like 24 it probably was some sort of spreadsheet; is that</p>	<p style="text-align: right;">Page 133</p> <p>1 paid that amount of money or does it mean something 2 else? 3 MR. ROMASHKO: Objection, foundation. I 4 don't know that this witness -- 5 BY THE WITNESS: 6 A. We paid -- we got paid for this project. 7 MR. LANGS: Let your attorney -- 8 MR. ROMASHKO: I just don't know that it's 9 been established that the witness is -- I understand 10 it's a Spirit document, but I don't know if it's been 11 established that the witness has personal knowledge 12 of the details of it. 13 BY MR. LANGS: 14 Q. Have you ever seen this document before? 15 A. Yes. 16 Q. In the presence of -- 17 A. Yes. 18 Q. -- Spirit Construction Services? 19 A. Yes. 20 Q. The cost column in this document, does 21 that mean that Spirit has received payment in that 22 amount or just that that cost exists, I guess is my 23 question? 24 A. That cost exists.</p>

<p style="text-align: right;">Page 134</p> <p>1 Q. Is there anywhere in this document where 2 it says Spirit received payment for this cost or that 3 cost? 4 A. No. 5 Q. So this is just a running tally of 6 Spirit's cost on the project, correct? 7 A. Yes. 8 Q. Does Spirit have a document or is it in 9 possession of documents or spreadsheets, computer 10 records, anything of that nature for the different 11 projects that Spirit works on that show what's been 12 paid for in that particular project? 13 A. Yes, we have. This project was -- this 14 paper was produced because the State of Arizona came 15 for more taxes than we believed. So we had to break 16 out our cost to our taxes. So this is a special 17 sheet that we did for a special project. 18 Q. So this type of sheet doesn't exist for 19 every job Spirit does? 20 A. No, it does not. 21 Q. Does some sort of sheet exist that keeps 22 track of the cost and payments made on a particular 23 project? 24 A. In our accounting books, yes.</p>	<p style="text-align: right;">Page 136</p> <p>1 I guess that raises one more 2 question. Does that mean that VHC keeps the 3 accounting for Spirit Construction Services? 4 A. No. 5 Q. Does he work for Spirit Construction 6 Services besides his ownership? 7 A. No. He owns -- VHC -- 8 Q. Okay. 9 A. -- he works for the owner of that -- 10 Q. All right. I understand. 11 A. -- company. 12 Q. But he's in charge of the accounting for 13 Spirit Construction Services; is that correct? 14 A. He is in charge of overseeing the 15 handling of what we need to keep and what we don't 16 need to keep. 17 Q. All right. What is the -- is it a law or 18 is it an internal record retention policy for 19 Spirit -- what length of time do you keep that type 20 of accounting for projects? 21 A. We go by the -- 22 Q. By the state law? 23 A. -- national -- state or national law. 24 Q. Okay. So you don't have -- does Spirit</p>
<p style="text-align: right;">Page 135</p> <p>1 Q. Okay. Do you have any sheets in your 2 accounting books with respect to the costs and any 3 payments that were made with respect to the four EPC 4 contracts that we've been talking about today? 5 A. Those are over 10 years old. We are not 6 required to keep them. I don't know what is purged 7 and what is not out of the system. 8 Q. So you don't know whether or not -- 9 A. I don't know. 10 Q. Again, to the extent they're not purged, 11 we would request that you don't purge those while 12 this litigation is ongoing. And you don't know -- go 13 ahead. Sorry. You don't know whether or not when we 14 originally received these responses, these 15 interrogatories, whether you ever produced those 16 documents or gave them to your attorney; is that 17 correct? 18 A. Right. 19 Q. Okay. Is it fair to say that when your 20 attorney sent you these questions, that you or 21 somebody else at least looked for those documents? 22 A. That's why Jim Kellam was -- he is keeper 23 of our records. 24 Q. Okay. Understood.</p>	<p style="text-align: right;">Page 137</p> <p>1 Construction Services have a record -- 2 A. Usually we use IRS. The IRS says that 3 you have to keep your records for a certain amount of 4 time. 5 Q. Does Spirit Construction Services have 6 its own record retention policy internally? 7 A. No. 8 Q. There's no written document or written 9 policy that Spirit Construction Services has created? 10 A. Not created. 11 Q. If you look at No. 9. And it says, 12 "Identify" -- 13 MR. ROMASHKO: I'm sorry. Which document? 14 BY MR. LANGS: 15 Q. I'm sorry. We're looking at what's been 16 marked as, I believe, Deposition Exhibit No. 9, which 17 are the original responses to the plaintiff's 18 interrogatories, and I'm looking at Interrogatory 19 No. 9 on Page 7. And that one states, "Identify all 20 communications from 2000 to the present, including 21 but not limited to person-to-person meetings and 22 telephone conversations defendants have had when 23 either Sharad Tak or Ron," Ron meaning Ron Van Den 24 Heuvel, "regarding this lawsuit from January 1st,</p>

<p style="text-align: right;">Page 138</p> <p>1 2016, to the present. For each such communication, 2 identify the date, location, subject, and persons 3 involved." 4 In your answer towards the bottom on 5 Page 7, it says, "Furthermore, on an unknown date 6 subsequent to the date RNS first contacted defendants 7 regarding its claims, Steve Van Den Heuvel met with 8 Ron Van Den Heuvel alone in Steve Van Den Heuvel's 9 office and RNS's claim was discussed." And then it 10 says "DEF," which I think is probably a typo. 11 Do you see that? 12 A. Yes. 13 MR. ROMASHKO: We'll stipulate that was a 14 typo. 15 BY MR. LANGS: 16 Q. Okay. What was discussed at that 17 meeting? 18 A. I can't remember. I... 19 Q. Let me ask you another question. Did you 20 ever send this complaint to Ron Van Den Heuvel? 21 A. Not to my knowledge. 22 Q. Do you remember having this meeting? 23 A. I had a number -- I don't know if that 24 was the meeting that we discussed that really -- I</p>	<p style="text-align: right;">Page 140</p> <p>1 BY MR. LANGS: 2 Q. At any point in time, did you or a 3 company affiliated with or Spirit Construction do 4 business with any of Ron's companies, ever? 5 A. Yes. 6 Q. And what kind of business? 7 A. We did some construction business. 8 Q. Did any of Ron's companies ever act as 9 subcontractors on any projects that Spirit 10 Construction was the general on? 11 A. No. 12 Q. That's never happened? 13 A. No. 14 Q. Does TPTC or PCIDI ever act as a 15 subcontractor on any projects that Spirit 16 Construction was the general on? 17 A. No. 18 Q. And that includes the lump sum contracts, 19 the materials -- time and materials contracts, and 20 EPC contracts, right? 21 A. Yes. 22 Q. Okay. So what kind of business did 23 Spirit ever do with any of Ron's companies? 24 A. We did some pumps and some things of any</p>
<p style="text-align: right;">Page 139</p> <p>1 never knew any of your -- and I don't want to know 2 any of your dealings with other people. 3 Q. Okay. So that was discussed at that 4 meeting? 5 A. I don't know what was discussed at this 6 particular meeting. 7 Q. At some meeting that you had with Ron 8 Van Den Heuvel, you told him that you don't want to 9 know about his dealings with other parties -- 10 A. With other parties. 11 Q. -- to the extent you don't need to know? 12 A. That's correct. 13 Q. What did he say, if he said anything? 14 A. "Okay." And we probably started talking 15 about other things. 16 Q. Did you discuss his criminal proceedings 17 at all during that meeting? 18 A. I never discussed his criminal 19 proceedings at all. I was not involved. 20 MR. LANGS: Let me take a quick break here. 21 I may be done with you. I might have a couple more 22 questions for you. But we should get you out of here 23 soon. 24 (A short break was had.)</p>	<p style="text-align: right;">Page 141</p> <p>1 companies that -- like when Ron owned Oconto Falls 2 Tissue. 3 Q. Right. Oh, I see what you're saying. 4 A. When Eco-Fibre was up and running. 5 Q. So when there were plants that were up 6 and running, you executed contracts to perform 7 projects at Ron's plants; is that right? 8 A. Correct. 9 Q. And was there ever a point in time where, 10 you know, because of Ron's various business dealings 11 we've been talking about, where you or Spirit 12 Construction decided, you know, we're not going to do 13 business with Ron's companies anymore? 14 A. Yes. 15 Q. When was that? 16 A. Ten years. Last 10 years. 17 Q. Pretty soon after 2008? 18 A. Correct. 19 Q. What was the straw that broke the camel's 20 back, per se? I mean, what precipitated that 21 decision? 22 A. The only thing that would be is we 23 weren't getting paid. 24 Q. Okay. So some of these business dealings</p>

<p style="text-align: right;">Page 142</p> <p>1 you had with Ron and Ron's companies resulted in</p> <p>2 Spirit Construction performing services that it</p> <p>3 wasn't paid for?</p> <p>4 A. That is correct.</p> <p>5 Q. Do you know off the top of your head what</p> <p>6 projects -- any specific projects that Spirit</p> <p>7 Construction performed for Ron's companies or Ron</p> <p>8 that he didn't pay Spirit for?</p> <p>9 A. Not off the top of my head. I was in</p> <p>10 Savannah, Georgia, when those projects happened up</p> <p>11 here.</p> <p>12 Q. Do --</p> <p>13 A. So...</p> <p>14 Q. Go ahead. Sorry. I didn't mean to cut</p> <p>15 you off.</p> <p>16 A. No. So I don't have firsthand knowledge</p> <p>17 of what they were.</p> <p>18 Q. Do you know how much money Ron or Ron's</p> <p>19 companies owes Spirit Construction as we sit here</p> <p>20 today?</p> <p>21 A. Millions.</p> <p>22 Q. Millions? Or tens of millions?</p> <p>23 A. No, absolutely not.</p> <p>24 Q. Okay.</p>	<p style="text-align: right;">Page 144</p> <p>1 Q. And what would month zero entail? What</p> <p>2 does that mean?</p> <p>3 A. Contracts signing and down payment.</p> <p>4 Q. So does this mean that when this contract</p> <p>5 was executed, that Spirit Construction was owed</p> <p>6 18.9 percent of the purchase price?</p> <p>7 A. And then -- yes, and then it goes back to</p> <p>8 the payment terms and they'd have to pay within that</p> <p>9 term. So at the contract signing, we're going to</p> <p>10 hand them an invoice for them.</p> <p>11 Q. Do you know if you ever sent that invoice</p> <p>12 to Sharad Tak or to ST Paper?</p> <p>13 A. No, we did not.</p> <p>14 Q. Do you remember why you never sent that</p> <p>15 invoice?</p> <p>16 A. Because the contract -- the project was</p> <p>17 never funded.</p> <p>18 Q. And when you say it was never funded, the</p> <p>19 owner of the project didn't secure the financing it</p> <p>20 promised it would; is that correct?</p> <p>21 A. Correct.</p> <p>22 Q. Under this contract, that doesn't mean</p> <p>23 that they didn't owe you the money, does it?</p> <p>24 A. Well, we didn't do the services.</p>
<p style="text-align: right;">Page 143</p> <p>1 A. And, you know, it's not more than</p> <p>2 2 either.</p> <p>3 Q. Can you take a look at the EPC -- well,</p> <p>4 this is the Oconto Falls one. The St. George</p> <p>5 contract, do you have that in front of you?</p> <p>6 A. It's No. 3.</p> <p>7 Q. If you look at what's been marked as</p> <p>8 Exhibit 3, this is one of the EPC contracts we've</p> <p>9 been talking about with respect to a project that was</p> <p>10 going to happen in St. George that was never</p> <p>11 constructed, correct?</p> <p>12 A. Yes.</p> <p>13 Q. If you look at Bates stamp page SCS 69.</p> <p>14 A. Yes.</p> <p>15 Q. And even if you look at the page before</p> <p>16 that, 68, it starts out, "Monthly milestone payment</p> <p>17 schedule and payment terms"?</p> <p>18 A. Yes.</p> <p>19 Q. And correct me if I'm wrong, but it's</p> <p>20 basically setting out certain milestones and dates</p> <p>21 that there's going to be an amount of the contract</p> <p>22 total paid to Spirit Construction Services; is that</p> <p>23 correct?</p> <p>24 A. Correct.</p>	<p style="text-align: right;">Page 145</p> <p>1 Q. Yeah. So it's not due on signing. It's</p> <p>2 due when the contract is financed?</p> <p>3 MR. ROMASHKO: Objection --</p> <p>4 BY MR. LANGS:</p> <p>5 Q. I'm asking you.</p> <p>6 MR. ROMASHKO: Objection, form and</p> <p>7 foundation.</p> <p>8 BY THE WITNESS:</p> <p>9 A. We're not going to send an invoice or do</p> <p>10 any work until we know we're going to get paid.</p> <p>11 Q. Right. Okay.</p> <p>12 A. So I would send it when I knew we were</p> <p>13 going to get paid.</p> <p>14 Q. And how would you know that you were</p> <p>15 going to get paid? Does the occurrence of you and</p> <p>16 the owner of this project signing this contract, does</p> <p>17 that indicate to you that he secured financing for</p> <p>18 the project or not?</p> <p>19 A. No.</p> <p>20 Q. But you still have an amount due under</p> <p>21 the contract upon signing, correct, and a down</p> <p>22 payment?</p> <p>23 A. And down payment including, so we had to</p> <p>24 do all of this other stuff. So we had to hand over</p>

<p style="text-align: right;">Page 146</p> <p>1 all of this stuff underneath there to do that.</p> <p>2 Q. So everything under that description is</p> <p>3 what 18.9 percent of the contract is worth, correct?</p> <p>4 A. Correct.</p> <p>5 Q. And you never performed any of those</p> <p>6 services, so you never sent an invoice?</p> <p>7 A. We never gave that to them, that's</p> <p>8 correct. We did not.</p> <p>9 Q. And when we were talking about the</p> <p>10 Doubletree contract, when you would receive that down</p> <p>11 payment, had you performed any services at that</p> <p>12 point --</p> <p>13 A. Yes.</p> <p>14 Q. -- with respect to that --</p> <p>15 What kind of services?</p> <p>16 A. We had already had the layout, as I</p> <p>17 talked to you before, and the engineering. We knew</p> <p>18 who we were going to use. We had down payments for</p> <p>19 supplies -- or for vendors that we needed to do at</p> <p>20 that point.</p> <p>21 Q. And doesn't this contract have vendors</p> <p>22 and subcontractors listed at the end of it that you</p> <p>23 were going to use?</p> <p>24 A. I sat with Doubletree, and I knew that</p>	<p style="text-align: right;">Page 148</p> <p>1 Trebles, the name?</p> <p>2 A. No.</p> <p>3 Q. He was saying that at some point in time,</p> <p>4 they did meet with you up in Green Bay. You just</p> <p>5 don't remember; is that correct?</p> <p>6 A. Yeah.</p> <p>7 Q. Do you remember maybe in the last couple</p> <p>8 years, probably within a year before this complaint</p> <p>9 was filed, sitting down with Marc Langs up in Green</p> <p>10 Bay at a meeting?</p> <p>11 A. Yes.</p> <p>12 Q. Do you remember what was discussed at</p> <p>13 that meeting?</p> <p>14 A. If these were ever going to go, if there</p> <p>15 was any way to get paid back for them.</p> <p>16 Q. What was your answer?</p> <p>17 A. My answer is they can fund any of these</p> <p>18 right now. I'll take them and we'll perform the</p> <p>19 work. And under this contract, I'm going to pay RNS</p> <p>20 instead of IFC.</p> <p>21 Q. Okay.</p> <p>22 A. That's the only difference at this point.</p> <p>23 So you fund these. I'm ready to go.</p> <p>24 Q. You want to build?</p>
<p style="text-align: right;">Page 147</p> <p>1 Doubletree had the financing. I sat with the bank.</p> <p>2 They said, yes, I have it.</p> <p>3 Q. With respect to the EPC contracts that</p> <p>4 we've been talking about that are Exhibits 3, 4, 5,</p> <p>5 and 6, I think, to your dep --</p> <p>6 A. Yes.</p> <p>7 Q. -- each one of those, if you page through</p> <p>8 them on the bottom, there's dates. Except on the</p> <p>9 first page, there doesn't seem to be a date. But the</p> <p>10 rest of the pages have dates. Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. And I think -- correct me if I'm wrong.</p> <p>13 It looks like all these contracts were signed or at</p> <p>14 least were sent to you or received at some point on</p> <p>15 November 14th, 2006; is that correct?</p> <p>16 A. Okay. That's what it says, yes.</p> <p>17 Q. I was just talking to Marc Langs who's</p> <p>18 sitting here, and he was the CFO of IFC Credit</p> <p>19 Corporation at the time and is now -- after IFC went</p> <p>20 through its bankruptcy, has been rehired by RNS</p> <p>21 Servicing as a consultant in this case. And he was</p> <p>22 telling me that at some point in time when the</p> <p>23 settlement agreement in these lawsuits was done, that</p> <p>24 he and Rudy Trebles -- does that ring a bell, Rudolph</p>	<p style="text-align: right;">Page 149</p> <p>1 A. I want to build.</p> <p>2 Q. You didn't tell him at any point in time</p> <p>3 that, you know, these contracts are obsolete or</p> <p>4 anything like that? No?</p> <p>5 A. I don't know -- I don't know exactly</p> <p>6 where it is.</p> <p>7 Q. Did you tell him at that meeting that</p> <p>8 these contracts had somehow -- that time had run out</p> <p>9 on these contracts and they would never be built?</p> <p>10 Did you ever say that to him?</p> <p>11 A. No. I would have said we're going to</p> <p>12 reprice them if they do because it's ten years later</p> <p>13 and labor rates and everything else -- but the</p> <p>14 contract, I'm okay with it.</p> <p>15 Q. As part of -- and you may or may not</p> <p>16 remember this, but I want to try to refresh your</p> <p>17 memory if you do. As part of this whole entire deal</p> <p>18 and these settlement agreements and these lawsuits</p> <p>19 with Ron, at some point in time, your brother, David</p> <p>20 Van Den Heuvel, had signed a corporate guarantee of</p> <p>21 some of the loans that IFC made to Ron. Are you</p> <p>22 familiar with those at all?</p> <p>23 A. No. No, I'm not.</p> <p>24 Q. Does that ring a bell, if I told you that</p>


<p style="text-align: right;">Page 150</p> <p>1 in negotiating the settlement and the continuing</p> <p>2 pledge agreement, that the idea behind the continuing</p> <p>3 pledge agreement and your signature pledging the</p> <p>4 money that was going to be owed to TPTC and PCDI to</p> <p>5 IFC Credit Corporation was meant to take the place of</p> <p>6 that guarantee? Do you remember anything like that?</p> <p>7 A. No.</p> <p>8 MR. B. LANGS: Did you find the settlement?</p> <p>9 MR. M. LANGS: No. So we can look at it for</p> <p>10 two seconds or --</p> <p>11 MR. LANGS: Well, I'll take a look for it</p> <p>12 while he asks some questions, if I need to. But for</p> <p>13 now, I'm done, if that makes sense. Go ahead.</p> <p>14 EXAMINATION</p> <p>15 BY MR. SPAHN:</p> <p>16 Q. Mr. Van Den Heuvel, my name is Brian</p> <p>17 Spahn. We met earlier today. And as Mr. Langs had</p> <p>18 noted earlier, I'm counsel for Sharad Tak, one of the</p> <p>19 defendants in this case. And I just have a couple of</p> <p>20 follow-up questions. You actually just answered one</p> <p>21 of the questions.</p> <p>22 So we've been talking about four EPC</p> <p>23 contracts, which are marked Exhibits 3 through 6.</p> <p>24 And I think you just verified for me that to your</p>	<p style="text-align: right;">Page 152</p> <p>1 was throwing around a little bit through his</p> <p>2 questions. At the time that these four EPC contracts</p> <p>3 were executed, Exhibits 3 through 6, did you consider</p> <p>4 them binding contracts?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Did you consider them valid</p> <p>7 contracts?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And counsel had some questions for</p> <p>10 you with respect to the funding of those four</p> <p>11 contracts. Can you just tell me again what -- at the</p> <p>12 time that you executed those four EPC contracts your</p> <p>13 understanding was with respect to the funding of</p> <p>14 those projects?</p> <p>15 A. I'm sorry. I was not part of that. I</p> <p>16 was part of one or two meetings that they had with</p> <p>17 either Goldman Sachs or Barclays that all I was asked</p> <p>18 at those meetings -- I was one of 30 -- 20 or 30</p> <p>19 people around the table. And I was asked if they</p> <p>20 funded this, could you do that work as a contractor,</p> <p>21 and I said yes.</p> <p>22 Q. And I think Counsel -- Mr. Langs, asked</p> <p>23 you a question about financing at one point, and I</p> <p>24 think your response was something to the effect of</p>
<p style="text-align: right;">Page 151</p> <p>1 best understanding, these were executed on or around</p> <p>2 November 14th, 2006; is that correct?</p> <p>3 A. Yes.</p> <p>4 Q. And counsel was asking you a few</p> <p>5 questions about Exhibit 3 and specifically Article 6</p> <p>6 that's on Page SCS 69, and I just wanted to turn your</p> <p>7 attention to the previous page, which is SCS 68, and</p> <p>8 specifically Article 5, which I will read for the</p> <p>9 record. It states, "The contractor shall commence</p> <p>10 the services detailed upon signing of this agreement</p> <p>11 and upon receiving notice to proceed as defined in</p> <p>12 Article 6E will complete the services 20 months</p> <p>13 thereafter."</p> <p>14 Did I read that correctly?</p> <p>15 A. Yes.</p> <p>16 Q. To your knowledge, was a notice to</p> <p>17 proceed ever issued on this EPC contract, Exhibit 3?</p> <p>18 A. No.</p> <p>19 Q. How about on the other three EPC</p> <p>20 contracts, which are represented in Exhibits 4</p> <p>21 through 6?</p> <p>22 A. No.</p> <p>23 Q. I want to just clarify a couple of things</p> <p>24 specifically with respect to language that counsel</p>	<p style="text-align: right;">Page 153</p> <p>1 somebody needed to finance these projects. Is that</p> <p>2 fair -- a fair characterization of your testimony?</p> <p>3 A. Yes.</p> <p>4 Q. That was true in November of 2006?</p> <p>5 A. That's correct.</p> <p>6 Q. That's true going through today; is that</p> <p>7 fair to say?</p> <p>8 A. Yes.</p> <p>9 Q. You knew that in 2006?</p> <p>10 A. Yes.</p> <p>11 Q. You knew that in 2007?</p> <p>12 A. Yes.</p> <p>13 Q. You knew that in 2008?</p> <p>14 A. Correct.</p> <p>15 (Van Den Heuvel Deposition</p> <p>16 Exhibit No. 11 marked as</p> <p>17 requested.)</p> <p>18 BY MR. SPAHN:</p> <p>19 Q. Mr. Van Den Heuvel, I've marked for you</p> <p>20 what's been marked as Exhibit 11. Take a second to</p> <p>21 look at that and tell me when you're ready.</p> <p>22 A. Okay.</p> <p>23 Q. Have you seen that document before I just</p> <p>24 handed it to you?</p>

<p style="text-align: right;">Page 154</p> <p>1 A. I've seen one very similar to it, not 2 this one. I don't know if I've seen this one, but 3 I've seen -- 4 Q. The title of the document on the top says 5 a Meeting with Spirit, Barclays, R.W. Beck," dated 6 December 20, 2007; is that correct? 7 A. That's correct. 8 Q. Do you recall, sitting here today, 9 whether you would have participated in this meeting 10 that took place in December of 2007? 11 A. I would have been the Spirit 12 representative if we were there, yes. 13 Q. And who's Barclays and R.W. Beck, if you 14 know? 15 A. Well, I only know who Barclays is. 16 They're a big money lender. R.W. Beck, I don't -- 17 sitting here right now, I don't know who they are. 18 Q. No. 2 on the agenda states "De Pere 19 Eco-Fibre, ST Paper site visit"; is that correct? 20 A. Yes. 21 Q. And then No. 5 is "EPC contract"; is that 22 correct? 23 A. Yes. 24 Q. Sitting here today, do you know whether</p>	<p style="text-align: right;">Page 156</p> <p>1 that relate to Oconto Falls, St. George, Utah, 2 Pennsylvania, and De Pere; is that correct? 3 A. Yes. 4 MR. LANGS: I think for the record, one of 5 those contracts is an upgrade contract for Oconto 6 Falls and De Pere, if I'm not mistaken, right? 7 BY MR. SPAHN: 8 Q. Well, just so the record is clear, the 9 EPC contracts are Exhibits 3 through 6. We've 10 established that; is that right? 11 A. Yes. 12 Q. Okay. And at the time that those four 13 EPC contracts were negotiated and signed in November 14 2006 -- I think you've stated this previously. But 15 was it your intent to move forward on those projects? 16 A. Our hope was to move forward. 17 Q. Mr. Langs had referenced previously that 18 Spirit has been a party to a lawsuit involving these 19 four contracts previously; is that correct? 20 A. Yes. 21 Q. Okay. That lawsuit was filed in 22 approximately 2007. Is that the best of your 23 recollection? You were deposed in that case? 24 A. Yes, I was deposed in 2008.</p>
<p style="text-align: right;">Page 155</p> <p>1 this agenda pertained to any of the four EPC 2 contracts that are the focus of this lawsuit? 3 A. Well, they'd have to be one of them. I 4 don't know which one. 5 Q. So is it fair to say that this meeting 6 that took place in December of 2007 had something to 7 do with trying to fund one, if more -- one or more of 8 the projects that are at the center of these EPC 9 contracts? 10 A. Yes. 11 Q. And No. 5H states, "Subcontractor 12 selection and design scope entirely by Spirit"; is 13 that fair to say? 14 A. Yes. 15 Q. What does that mean, if you know? 16 A. There's a lot of scope in here, so the 17 earth needs to be moved. We don't do that. 18 Insulators, HVAC, all of the major components to 19 building the buildings and installing the equipment. 20 Q. Okay. Were you finished? 21 A. I am. The design scope was by us, and we 22 would have picked the engineer for those projects. 23 Q. Okay. And so that the record is clear, 24 Mr. Langs was focused primarily on four EPC contracts</p>	<p style="text-align: right;">Page 157</p> <p>1 MR. SPAHN: Just so that we're all on the 2 same page here, mark that as an exhibit. 3 (Van Den Heuvel Deposition 4 Exhibit No. 12 marked as 5 requested.) 6 BY MR. SPAHN: 7 Q. We're not going to go through all of 8 this, Mr. Van Den Heuvel. I promised that I would 9 only have a few questions. But take a second and 10 look at Exhibit 12 and let me know when you're ready. 11 A. This is a copy of my deposition -- my 12 first deposition, yes. 13 Q. And directing your attention to the first 14 page, you'll see on -- this is what's commonly 15 referred to as a minuscule. It's four pages to a 16 page. Is that a fair characterization? 17 A. Yes. 18 Q. So in the upper left-hand corner of the 19 first page, it's kind of hard to tell. But this is a 20 copy of your deposition, which was taken on 21 April 8th, 2008; is that correct? 22 A. That sounds like the right date. 23 Q. And that was part of the lawsuit that IFC 24 Credit Corporation had brought against a number of</p>

<p style="text-align: right;">Page 158</p> <p>1 parties to include Spirit Construction?</p> <p>2 A. Yes.</p> <p>3 Q. You were given an oath to provide</p> <p>4 truthful testimony at that deposition; is that fair</p> <p>5 to say?</p> <p>6 A. Yes.</p> <p>7 Q. Do you recall sitting for this deposition</p> <p>8 in April of 2008?</p> <p>9 A. Yes.</p> <p>10 Q. Do you recall being asked about a number</p> <p>11 of -- if not all of the EPC contracts that you've</p> <p>12 been asked about today, if you recall?</p> <p>13 A. Yes.</p> <p>14 Q. Any reason why you would not have</p> <p>15 provided truthful testimony on April 8, 2008?</p> <p>16 A. No.</p> <p>17 Q. Of course all of the contracts, to</p> <p>18 include Exhibit 7, which is the EPC contract</p> <p>19 March 6th, 2008, all predate this deposition April 8,</p> <p>20 2008; is that fair to say?</p> <p>21 A. Yes.</p> <p>22 Q. And you understand that on April 8th,</p> <p>23 2008, you were being questioned by counsel for IFC</p> <p>24 Credit Corporation?</p>	<p style="text-align: right;">Page 160</p> <p>1 IFC and they might believe these are actual -- what</p> <p>2 you would call executed contracts?"</p> <p>3 Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. And then there's an objection that -- on</p> <p>6 the record. Another question. "Can you answer my</p> <p>7 question?" And then you state, "My knowledge to me</p> <p>8 that was -- that IFC knew that these were not funded</p> <p>9 projects at the time."</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. Do you recall what the basis of that</p> <p>13 testimony was on April 8, 2008?</p> <p>14 A. Basically, the conversation I had before</p> <p>15 I signed the IFC Schedule B.</p> <p>16 Q. The conversation with who?</p> <p>17 A. My brothers.</p> <p>18 Q. Okay. And which specific brothers are</p> <p>19 you referring to?</p> <p>20 A. Sorry.</p> <p>21 Q. I know. You have a number, to include a</p> <p>22 number of brothers?</p> <p>23 A. Correct. Correct. I don't really know</p> <p>24 who was there. I am sure Ron was there. But who the</p>
<p style="text-align: right;">Page 159</p> <p>1 A. Yes.</p> <p>2 Q. Again, I promise I won't go through this</p> <p>3 in detail. But I do have -- before I direct you to</p> <p>4 any specific testimony, at the time that you signed</p> <p>5 what has been referred to in Schedule B to the</p> <p>6 continuing pledge agreement, which is Exhibit 2 to</p> <p>7 this deposition -- and that's dated March 28th, 2007.</p> <p>8 Let me know when you're there.</p> <p>9 A. Yes.</p> <p>10 Q. What, if any, understanding did you have</p> <p>11 with respect to what had been shared with IFC</p> <p>12 regarding the status of the funding of the four</p> <p>13 referenced EPC contracts?</p> <p>14 A. I did not have.</p> <p>15 Q. And I just want to refresh, perhaps, your</p> <p>16 recollection to the testimony that you provided back</p> <p>17 on April 8th, 2008. So if you'd turn to Page 105.</p> <p>18 Let me know when you're there.</p> <p>19 A. Okay.</p> <p>20 Q. And on Page 105 at the top, there's a</p> <p>21 question that's being posed by counsel for IFC that</p> <p>22 states, "But you gave them a letter in which you</p> <p>23 represented that these contracts were in full force</p> <p>24 and effect. Do you understand how that might confuse</p>	<p style="text-align: right;">Page 161</p> <p>1 other ones were, I don't know.</p> <p>2 Q. If you turn to page -- what's Page 91 of</p> <p>3 the deposition that you sat for on April 8th, 2008,</p> <p>4 at the bottom, there's a question: "Did Spirit</p> <p>5 Construction engage either TPTC or PCDI to do work as</p> <p>6 subcontractor under that contract?"</p> <p>7 Do you see that question?</p> <p>8 A. Yes.</p> <p>9 Q. And your response is, "No, we did not"?</p> <p>10 A. Yes.</p> <p>11 Q. And I think counsel covered this. But</p> <p>12 since April 8, 2008, has Spirit engaged TPTC or PCDI</p> <p>13 for any contracts?</p> <p>14 A. No.</p> <p>15 Q. If you flip to Page 141. And, again,</p> <p>16 this is -- I'm still referring to the testimony that</p> <p>17 you provided on April 8, 2008. The question is, "Has</p> <p>18 Spirit Construction paid any monies to TPTC or PCDI</p> <p>19 since January of '07 in connection with any of the</p> <p>20 four EPC contracts that you mentioned in your letter</p> <p>21 to IFC?"</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. Your response is "No"?</p>

<p style="text-align: right;">Page 162</p> <p>1 A. Correct.</p> <p>2 Q. Was that truthful testimony in April</p> <p>3 of 2008?</p> <p>4 A. Yes.</p> <p>5 Q. Has that -- if I posed the same question</p> <p>6 today, would your answer be any different?</p> <p>7 A. No.</p> <p>8 Q. The next question is, "Has Spirit</p> <p>9 Construction engaged TPTC or PCDI as subcontractors</p> <p>10 on any of those four projects that you described in</p> <p>11 your letter since January of 2007?" Again, on</p> <p>12 April 8, 2008, you responded "No"; is that fair?</p> <p>13 A. Yes.</p> <p>14 Q. Has that response changed since April</p> <p>15 of 2008?</p> <p>16 A. No.</p> <p>17 Q. I think you said previously at the very</p> <p>18 beginning of this morning's deposition that you think</p> <p>19 the last time you spoke to Mr. Tak was approximately</p> <p>20 over 10 years ago; is that fair?</p> <p>21 A. Yes.</p> <p>22 Q. You haven't spoken with Mr. Tak since</p> <p>23 this case has been pending?</p> <p>24 A. This case, definitely not, no.</p>	<p style="text-align: right;">Page 164</p> <p>1 from ST Paper and representatives from IFC to the</p> <p>2 best of your recollection?</p> <p>3 A. To mine -- there was 30 people around the</p> <p>4 table. If one of them was, I don't know, but to my</p> <p>5 recollection, no.</p> <p>6 Q. When you had a conversation with some</p> <p>7 combination of your brothers in or around March</p> <p>8 of 2007 when considering whether to sign what's</p> <p>9 Schedule B to Exhibit 2, do you recall whether the</p> <p>10 topic of ST Paper was brought up in the context of</p> <p>11 any of those conversations?</p> <p>12 A. I don't -- no, I don't.</p> <p>13 Q. Is it fair to say that Mr. Tak was not a</p> <p>14 part of any of those conversations that led up to</p> <p>15 your signing Schedule B to the consent pledge</p> <p>16 agreement?</p> <p>17 A. Yes.</p> <p>18 Q. He was not part of --</p> <p>19 A. He was not part of it.</p> <p>20 MR. SPAHN: That's all I have.</p> <p>21 MR. ROMASHKO: Brian, you had deferred some</p> <p>22 of your direct, so I don't know if you want to pick</p> <p>23 up at this point or --</p> <p>24 MR. LANGS: I can wait until you go.</p>
<p style="text-align: right;">Page 163</p> <p>1 Q. Okay. Did you speak with Mr. Tak when</p> <p>2 the first IFC lawsuit was filed?</p> <p>3 A. No.</p> <p>4 Q. Bear with me. I'm just going to flip</p> <p>5 through my notes from this morning and see if I've</p> <p>6 got any follow-up.</p> <p>7 Mr. Langs at one point referred to</p> <p>8 the answer to the complaint which references a</p> <p>9 meeting that took place in Morton Grove in</p> <p>10 approximately March or April of 2007. Do you</p> <p>11 remember that line of questioning?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Were you at a meeting with</p> <p>14 Mr. Langs and anyone else in Morton Grove in March or</p> <p>15 April of 2007?</p> <p>16 A. No, not to my knowledge.</p> <p>17 Q. Do you recall ever being invited to a</p> <p>18 meeting with any representatives of IFC along with</p> <p>19 representatives of ST Paper?</p> <p>20 A. No. I don't have any recollection.</p> <p>21 Q. Were you ever in a meeting with Mr. Tak</p> <p>22 and Mr. Langs, if you recall?</p> <p>23 A. No.</p> <p>24 Q. Were you ever in a meeting with anyone</p>	<p style="text-align: right;">Page 165</p> <p>1 MR. ROMASHKO: All right. Can we take five?</p> <p>2 MR. LANGS: Yeah, that's fine.</p> <p>3 (A short break was had.)</p> <p>4 EXAMINATION</p> <p>5 BY MR. ROMASHKO:</p> <p>6 Q. All right. Steve, I'm going to ask you</p> <p>7 just a couple of questions. If no one minds, I'm</p> <p>8 just going to remind myself of which exhibit is which</p> <p>9 here. So if you take a look at Exhibit 2 again.</p> <p>10 A. Yes.</p> <p>11 Q. I think you testified about this before,</p> <p>12 but let's just be clear. When is the first time you</p> <p>13 saw that whole document that's marked as Exhibit 2?</p> <p>14 A. After I signed Schedule B.</p> <p>15 Q. Okay. Was it during your deposition in</p> <p>16 2008?</p> <p>17 A. Yes, that probably was the first time,</p> <p>18 but it could have been as an exhibit to the lawsuit.</p> <p>19 Q. But when you were brought that Schedule B</p> <p>20 to sign, what was put in front of you?</p> <p>21 A. Just this page.</p> <p>22 Q. No other portion of the document?</p> <p>23 A. No.</p> <p>24 Q. And looking at that Schedule B today, is</p>

<p style="text-align: right;">Page 166</p> <p>1 everything in it true?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And you believed everything was</p> <p>4 true when you signed it?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And what did you understand that</p> <p>7 Spirit was agreeing to do?</p> <p>8 A. That if any of the EPC contracts would</p> <p>9 become funded and we would proceed to do it, that we</p> <p>10 would -- that there were portions in those contracts</p> <p>11 that would pay IFC the amount of money that were owed</p> <p>12 to TPTC or PCDI up to the value of the sheet.</p> <p>13 Q. Okay. Did you understand that to</p> <p>14 obligate Spirit to pay any money out that it wasn't</p> <p>15 already going to pay?</p> <p>16 A. Unless we get those EPCs funded. And we</p> <p>17 were not.</p> <p>18 MR. ROMASHKO: Okay. I have no other</p> <p>19 questions.</p> <p>20 FURTHER EXAMINATION</p> <p>21 BY MR. LANGS:</p> <p>22 Q. I have just a couple more.</p> <p>23 Can you pull out -- again, we were</p> <p>24 just talking about it -- the St. George, Utah.</p>	<p style="text-align: right;">Page 168</p> <p>1 detailed upon signing of this agreement, and upon</p> <p>2 receiving notice to proceed as defined in Article 6E,</p> <p>3 will complete the services 20 months thereafter."</p> <p>4 Okay?</p> <p>5 A. Yeah.</p> <p>6 Q. So your reading of this contract and when</p> <p>7 you signed this contract, your understanding was that</p> <p>8 upon signing the agreement, you didn't need to</p> <p>9 commence any services?</p> <p>10 A. Not until we got a notice to proceed.</p> <p>11 Q. Okay. And that was your reading of this</p> <p>12 then and that was your understanding then?</p> <p>13 A. Yes.</p> <p>14 Q. And you read this contract when you</p> <p>15 signed it; is that correct?</p> <p>16 A. Yes. We get a notice to proceed almost</p> <p>17 every single contract we ever do. Whether it's lump</p> <p>18 sum, time and material, we get a notice to proceed.</p> <p>19 Q. Exhibit No. 11 that counsel just put in</p> <p>20 front of you, do you have that in front of you?</p> <p>21 A. Okay.</p> <p>22 Q. Exhibit No. 11 states in 5H,</p> <p>23 "Subcontractor selection and design scope entirely by</p> <p>24 Spirit."</p>
<p style="text-align: right;">Page 167</p> <p>1 That's what's been marked as Exhibit 3.</p> <p>2 A. Correct.</p> <p>3 Q. And if you could turn to Page SCS 68. We</p> <p>4 were just talking about it, I believe with Mr. Tak's</p> <p>5 counsel.</p> <p>6 A. Okay.</p> <p>7 Q. If you look at Article 5, it says</p> <p>8 "Contract Term," and it says, "The contractor shall</p> <p>9 commence the services detailed upon the signing of</p> <p>10 this agreement."</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. What services was Spirit supposed to</p> <p>14 commence upon the signing of this agreement?</p> <p>15 MR. ROMASHKO: Objection, form.</p> <p>16 BY THE WITNESS:</p> <p>17 A. That's a comma -- there's a comma. That</p> <p>18 isn't the whole sentence.</p> <p>19 Q. I understand.</p> <p>20 A. I would read the whole sentence.</p> <p>21 Q. Sure.</p> <p>22 A. "And commence the services detailed."</p> <p>23 Q. Okay. I'll read the whole thing. It</p> <p>24 says, "The contractor shall commence the services</p>	<p style="text-align: right;">Page 169</p> <p>1 Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. Correct me if I'm wrong. I thought you</p> <p>4 testified earlier that at least with respect to these</p> <p>5 four EPC contracts we've been talking about, that it</p> <p>6 was the owner, Sharad Tak's right and obligation to</p> <p>7 select the subcontractors on the contract; is that</p> <p>8 correct?</p> <p>9 MR. ROMASHKO: Objection, misstates the</p> <p>10 testimony.</p> <p>11 BY MR. LANGS:</p> <p>12 Q. I mean, did you testify earlier that you</p> <p>13 received these contracts and the subcontractors in</p> <p>14 Exhibit D were picked by the owner, Mr. Tak?</p> <p>15 A. Correct.</p> <p>16 Q. Exhibit No. 11 seems to state that the</p> <p>17 subcontractor selection and design scope is entirely</p> <p>18 by Spirit, meaning that Spirit should be picking</p> <p>19 subcontractors on these projects. Which is it?</p> <p>20 A. Not my agenda.</p> <p>21 Q. Not your agenda. Okay. So you're</p> <p>22 sticking by the testimony that it was up to the owner</p> <p>23 to pick the subcontractors, correct?</p> <p>24 A. Yes.</p>

<p style="text-align: right;">Page 170</p> <p>1 Q. I just wanted to make that clear.</p> <p>2 A. Correct. If they gave to us, then that</p> <p>3 would change the contract, but...</p> <p>4 Q. Okay. And then, did Spirit Construction</p> <p>5 ever get involved in a lawsuit with Sharad Tak or any</p> <p>6 company that Sharad Tak owned that you're aware of?</p> <p>7 A. That I'm aware of? Spirit</p> <p>8 Construction -- not that I'm aware of.</p> <p>9 Q. As you sit here today, you're not aware</p> <p>10 of any note that Sharad Tak -- that was assigned to</p> <p>11 Spirit Construction that Sharad Tak had promised to</p> <p>12 pay some sum of money in the millions of dollars to</p> <p>13 Spirit Construction that Spirit Construction sued</p> <p>14 Sharad Tak about? You don't remember that?</p> <p>15 A. No.</p> <p>16 MR. LANGS: Okay. That's all I have.</p> <p>17 MR. SPAHN: I'm done.</p> <p>18 MR. ROMASHKO: Nothing further.</p> <p>19 (Witness excused.)</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p style="text-align: right;">Page 172</p> <p>1 In witness whereof, I have hereunto</p> <p>2 set my hand and affixed my seal of office at Chicago,</p> <p>3 Illinois, this 5th day of January 2019.</p> <p>4</p> <p>5</p> <p>6 </p> <p>7</p> <p>8 MEAGAN M. CAHILL, CSR</p> <p>9</p> <p>10</p> <p>11 CSR No. 084-004754</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
<p style="text-align: right;">Page 171</p> <p>1</p> <p>2 UNITED STATES OF AMERICA)</p> <p>3 NORTHERN DISTRICT OF)</p> <p>4 ILLINOIS</p> <p>5 EASTERN DIVISION) SS.</p> <p>6 STATE OF ILLINOIS)</p> <p>7 COUNTY OF COOK)</p> <p>8 I, Meagan M. Cahill, Certified</p> <p>9 Shorthand Reporter, do hereby certify that STEVEN VAN</p> <p>10 DEN HEUVEL was first duly sworn by me to testify to</p> <p>11 the whole truth and that the above deposition was</p> <p>12 reported stenographically by me and reduced to</p> <p>13 typewriting under my personal direction.</p> <p>14 I further certify that the said</p> <p>15 deposition was taken at the time and place specified</p> <p>16 and that the taking of said deposition commenced on</p> <p>17 the 18th day of December, 2018, at 8:30 a.m.</p> <p>18 I further certify that I am not a</p> <p>19 relative or employee or attorney or counsel of any of</p> <p>20 the parties, nor a relative or employee of such</p> <p>21 attorney or counsel, nor financially interested</p> <p>22 directly or indirectly in this action.</p> <p>23</p> <p>24</p>	