

IN THE CIRCUIT COURT OF THE 3rd
JUDICIAL CIRCUIT IN AND FOR
COLUMBIA COUNTY, FLORIDA

CASE NO.: CACE-18-000105-CA

ADD HELIUM, LLC
a Delaware Limited Liability Corporation
and PETER SOTIS, individually,

Plaintiffs,

vs.

INTERNATIONAL ASSOCIATION OF NITROX
DIVERS, INC.,
a Florida Corporation,

Defendants.

**PLAINTIFFS' NOTICE OF FILING DEPOSITION OF JOHN JONES
IN SUPPORT OF MOTION TO COMPEL DISCOVERY**

Plaintiffs, ADD HELIUM, LLC and PETER SOTIS, by and through undersigned counsel, in support of their Motion for Reconsideration file the Transcript of Deposition of John Jones taken on September 20, 2018 in support of Plaintiff's Motion to Compel Discovery.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing document was furnished by e-mail this 8th November, 2018 to: Jennifer C. Biewend, Esq., Robinson, Kennon & Kendron, P.A., 582 W. Duval Street, Lake City, Florida 32055; Telephone: 386-755-1334; Email: jcb@rkkattorneys.com.

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1 IN THE CIRCUIT COURT OF THE THIRD JUDICIAL
2 CIRCUIT, IN AND FOR COLUMBIA COUNTY, FLORIDA

3 CASE NO.: CACE-18-000105-CA

4 ADD HELIUM, LLC, a Delaware Limited
5 Liability Corporation, and PETER
6 SOTIS, individually,

7 Plaintiffs,

8 vs.

9 INTERNATIONAL ASSOCIATION OF NITROX
10 DIVERS, INC., a Florida Corporation,

11 Defendant.

CERTIFIED
ORIGINAL

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DEPOSITION OF
JOHN P. JONES

Taken on behalf of the Plaintiffs

DATE TAKEN: September 20, 2018
TIME: 12:30 p.m. to 2:30 p.m.
PLACE: Third Circuit Reporters
 136 Southwest Nassau Street
 Lake City, Florida 32025

Examination of the witness taken before:

Mollie Stenbeck, Court Reporter
Notary Public in and for the State of Florida
Third Circuit Reporters & Video
136 Southwest Nassau Street
Lake City, Florida 32025

A P P E A R A N C E S

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NEIL BAYER, Esquire

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Appearing on behalf of the Plaintiffs.

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Appearing on behalf of the Defendant.

ALSO PRESENT:
Peter Sotis

I N D E X

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P-1 (Letter to Mr. Sotis)

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1 S T I P U L A T I O N

2 It was stipulated and agreed by and
3 between counsel for the respective parties and the
4 witness, that the reading and signing of the
5 deposition not be waived by the witness.

6 - - -

7 JOHN P. JONES,
8 having been produced and first duly sworn as a
9 witness, testified as follows:

10 THE WITNESS: So help me God.

11 DIRECT EXAMINATION

12 BY MR. BAYER:

13 Q Can you state your name for the record,
14 please.

15 A John P. Jones.

16 Q Mr. Jones, can I have your -- ask for
17 your home address, please.

18 A 495 Northwest Zack, Z-a-c-k, Drive, Lake
19 City, Florida 32055.

20 Q And what is your telephone number,
21 please?

22 A [REDACTED]

23 Q Are you presently employed?

24 A I'm retired.

25 Q Okay. Can I ask you what you did in

1 your regular work life preretirement?

2 A I ran utilities.

3 Q Okay. Public utilities?

4 A Public.

5 Q What -- can you give me, sort of, just a
6 quick overview of the type of work you did.

7 A Well, I had a municipal utility and we
8 had electric, water, sewer, did some telephone
9 communications. And I was responsible for it. I
10 reported to a seven-member elected board.

11 Q So you were part of an elected board?

12 A No. I was -- reported to the elected
13 board.

14 Q And how long did you do that for?

15 A 25 years.

16 Q Okay. Can I ask you your educational
17 background?

18 A I've got a Bachelor's and Master's.

19 Q Bachelor's from where?

20 A Southern Tech.

21 Q And a Master's in?

22 A Business.

23 Q Okay. Where was that from?

24 A Georgia State.

25 Q Okay. Do you remember the year?

1 A No.

2 Q Okay. I have to think twice about what
3 year I got my degree.

4 A It's very much immaterial. It's
5 something I did going through night school. I
6 can remember the drive. They have to teach an
7 engineer business class. They teach us numbers,
8 but business is a little different.

9 Q Absolutely. Can you give me sort of an
10 overview of your diving credentials, your
11 experience in diving.

12 A Well, I've -- the first time I started
13 diving, I was a teenager. Then I quit for a
14 while because I went in the military and did all
15 of that normal stuff. And then I started diving
16 again I guess about 30 years ago.

17 And being a very much type A
18 personality, I think six months after I started
19 back diving again, I was an instructor. And then
20 I -- I've always liked to crawl in holes in the
21 ground, so I started -- kind of started cave
22 diving.

23 And, you know, it's been my stress
24 relief. When you've got a lot of people and work
25 for an elected board, you need something to

1 forget about the job. And that's always been my
2 stress relief.

3 Q That makes sense.

4 A So when you go under water with the
5 students, you have to forget about the job. And
6 it's an outstanding stress reliever. So that's
7 -- and, you know, I've kind of been involved with
8 IANTD for a long time. The owner's been a
9 long-time good friend of mine. And I've been
10 kind of more of a volunteer. I don't take any
11 real pay for what I do, which is not unusual in
12 this business. I get some other incidental
13 things that I would say -- you know, to help
14 cover some of the things I do. But it
15 probably -- it don't, really. And we, you
16 know -- so I teach a lot of rebreathers and mixed
17 gas and most of -- I think most of everything
18 that they teach.

19 Q Okay.

20 A Mostly I make right now -- at my age I
21 do mostly instructors and instructor training
22 stuff instead of normal students.

23 Q Okay. Can you tell me what -- what dive
24 certifications you hold.

25 A I'm an instructor trainer trainer

1 trainer, I guess, even though that's not a
2 certification. I make instructor trainer
3 trainers. I also make instructor trainers. So I
4 guess I got as high as you're going to get.

5 Q Okay. And what are some of -- some of
6 the -- I won't hold you to the exhaustive list.
7 But can you tell me what other certifications you
8 hold, the most --

9 MS. BIEWEND: And keep in mind for the
10 court reporter, you know, if you're saying
11 acronyms and stuff like that, make sure you
12 enunciate them so it comes out in the record
13 correctly.

14 A If you take IANTD's list, I'm an
15 instructor trainer trainer for everything on
16 their list, so trimix, cave, you know, probably
17 half the rebreathers made, you know, the whole
18 list of things, you know, from open water on up.

19 Q And who were those certifications given
20 to you by? What -- what organizations?

21 A Actually, I got some from PADI. I've
22 been a TDI instructor trainer. Most of them came
23 from IANTD --

24 Q Okay.

25 A -- or related in the TDI certifications,

1 which I haven't had in a while. I quit teaching
2 for them. I only did it for a friend of mine.
3 They was making a rebreather, so I -- they needed
4 an IT and I did it. Most of them crossed over
5 from my IANTD certifications.

6 Q Just because oftentimes -- I didn't give
7 you the ground rules before we started.

8 A Okay.

9 Q You know, it always helps -- and you've
10 done good so far -- allowing me to finish my
11 question before you answer and then giving good
12 verbal responses so the court reporter here can
13 get everything down.

14 One thing I didn't tell you is if you
15 ever don't understand one of my questions, you
16 should tell me, I don't understand what you're
17 saying, and ask me to rephrase it. And then from
18 time to time, I may ask you what certain
19 abbreviations mean because -- we all know because
20 we're -- we're someone involved in -- in this
21 case or in this suit. But if a judge reads the
22 transcript, you know, we don't know what his
23 experience is.

24 So the initials you just referenced, I
25 think it was TDI or was it TI?

1 A Yeah. It's Technical Divers

2 International, I think is what it stands for.

3 Q And what exactly is TDI? Is that a --

4 A It's another training. Actually, it
5 came out of IANTD. They were actually -- they
6 left IANTD and formed their own agency. That
7 happens.

8 Q Okay.

9 A Kind of like churches.

10 Q And in terms of the certifications that
11 you have from IANTD, can you tell me some of the
12 certifications that you hold.

13 A Well, I'm a CCR Trimix ITT. I'm a
14 Trimix ITT.

15 Q Okay. Well, let's take them one at a
16 time.

17 A Okay.

18 Q So CCR --

19 A Closed circuit rebreather.

20 Q So you're CCR Trimix?

21 A Uh-huh.

22 Q And --

23 A I'm regular Trimix, open circuit Trimix.

24 Q Okay.

25 A I'm CCR, closed circuit rebreather,

1 cave. I'm also open circuit cave. And there are
2 several certifications off that, advanced cave
3 DPV, advanced cave side mount, advanced -- you
4 know, several certifications off of that.

5 And then under, like, the Trimix there
6 are several -- there's all levels of mixed gas
7 that fall under that from Normoxic Trimix to
8 basically even what we call Nitrox. So if you
9 have that, you've got everything down below it.

10 Q Do you have any type of professional
11 resumé or any type of list of the certifications
12 that you hold?

13 A I can have them printed out.

14 Q Okay.

15 A It's not something I normally carry
16 around.

17 Q No, I wouldn't expect it to be in your
18 wallet.

19 A If you would have requested it, I would
20 have it.

21 Q Is that something that IANTD would have
22 on file? Do you know?

23 A Yes.

24 Q So if I were to ask IANTD --

25 A They would be glad to give it to you.

1 Q In terms of your deposition today, what,
2 if anything, did you do to prepare for the
3 deposition?

4 A I just -- not really -- I wouldn't say
5 too much of anything. I mean, I sat down and
6 discussed generally -- I came by and discussed
7 with the attorney for a few minutes and that's
8 pretty well it. But this is not my first
9 deposition.

10 Q Did you speak to Mr. Mount about your
11 deposition?

12 A No, not really. Probably will
13 afterwards.

14 Q Okay. What about Mr. Pedro?

15 A Mr. Pedro? No, none other than he knows
16 I'm going to be here.

17 Q Did you read either of their deposition
18 transcripts?

19 A I -- roughly. I didn't study it.

20 Q Okay.

21 A There wasn't any need to.

22 Q Do you recall whose deposition
23 transcripts you were --

24 A I glanced over both of them or had the
25 opportunity to. But really, you know, that

1 wasn't anything to do with what I was going to
2 say anyway. So it wasn't anything I could study
3 for.

4 Q Were those given to you by counsel or
5 by --

6 A No. Like I said, down there they have
7 them right there. I go and talk to them every
8 day.

9 Q When you say them, are you referring
10 to --

11 A Yeah.

12 Q -- Mr. Mount and Mr. Pedro?

13 A Yeah. I really had no interest in
14 reading them.

15 Q Okay. Did you look at any files in the
16 IANTD office regarding the underlying event in
17 this case, that being the death of Robert
18 Stewart?

19 A I have.

20 Q What did you look at?

21 A I kind of previewed them. That's all.
22 I didn't really do a whole lot of intense study
23 into them.

24 Q Okay. But what did you preview?

25 A I looked at the depositions and several

1 other things that's came in, you know, just kind
2 of keeping up roughly with it without trying to
3 draw any opinion.

4 Q When you say the depositions, are those
5 depositions from the Rob Stewart litigation?

6 A Yeah.

7 Q Do you recall which depositions you
8 looked at?

9 A No.

10 Q Do you know who provided those
11 deposition transcripts to IANTD?

12 A Not really.

13 Q Okay. And did anybody other than IANTD
14 provide any of the deposition transcripts to you?

15 A No.

16 Q Okay. Have you had any conversations
17 with Craig Jenni?

18 A I talk to Craig regularly. Craig's an
19 old friend, goes back a long ways.

20 Q Have you had discussions with Mr. Jenni
21 regarding the death of Rob Stewart?

22 MS. BIEWEND: And I would like to
23 place -- I'm sorry. I would like to place an
24 objection on the record just like last time
25 that any communications that were

1 communications for advice of any sort would
2 be privileged. And I would instruct him not
3 to answer those.

4 But otherwise, if you can answer, do.

5 BY MR. BAYER:

6 Q Well, when you've had these discussions
7 with Mr. Jenni about Rob Stewart's death, was he
8 acting as the attorney for IANTD?

9 A He has been their attorney for a long
10 time. So my assumption, anything to do with --
11 anything to do with diving, we are basically
12 attorney/client in this case.

13 Now, we discuss a lot of things. He's
14 an old friend.

15 Q Okay.

16 A But -- you know, but if it applies to
17 IANTD, he's been, from my knowledge, their --
18 representing them on and off for forever.

19 Q Okay. In terms -- are you aware that
20 Mr. Jenni is also working as a consulting expert
21 for Horizon Dive in the Stewart litigation?

22 A I know he's representing somebody. I
23 really don't care who he was. You know, I know
24 he was involved.

25 Q What is your understanding of his

1 involvement in the Stewart litigation?

2 A I would assume he's the attorney for
3 somebody.

4 Q Okay. But you don't know who?

5 A Well, I never have actually been told.

6 Q Okay.

7 A I've never seen it in writing or
8 whatever. But, yeah, my assumption would be
9 Horizon.

10 Q Okay. Have you ever spoken to any of
11 Horizon's attorneys regarding the Stewart
12 litigation?

13 A No.

14 Q Has anybody from -- representing
15 Horizon, that would be the Fertig Law Firm in
16 Fort Lauderdale. Has anybody from the Fertig
17 firm provided you with any documentation
18 regarding the Rob Stewart --

19 A I haven't talked to anybody from there.
20 I don't want to.

21 Q Okay. So would the information -- do
22 you know how -- whether that firm provided any
23 information to IANTD?

24 A I'm unaware.

25 Q When you need information in this case,

1 particularly the death of Rob Stewart, how do you
2 go about obtaining it as a general rule?

3 A I have access to the protected online
4 files with IANTD.

5 Q When you say protected online files --

6 A Dropbox.

7 Q Dropbox? Okay. And do the Dropbox
8 files contain the actual -- I'll limit it to Rob
9 Stewart. Is there a Dropbox file for the Rob
10 Stewart death?

11 A I don't remember exactly how they're
12 labeled. But it's up there.

13 Q Okay. And within those files are
14 there -- what would I find inside some of those
15 files? I'll assume there are some
16 attorney/client communications.

17 A Yeah, I think there is. Like I say, I'm
18 trying -- I'm trying not to study those files --

19 Q Okay.

20 A -- deliberately.

21 Q Why is that?

22 A Because the first thing -- I've taken on
23 a function with IANTD that, in my opinion of the
24 function, requires me to stay unbiased. So I do
25 not want to create a bias, if that makes sense to

1 you.

2 Q Okay.

3 A So I've tried my best -- the other thing
4 is I don't want to become an expert because I do
5 not want to ever be called into court to testify
6 against the industry.

7 Q Now, with respect to IANTD, what is your
8 current position or role with the company?

9 A I'm director of quality assurance.

10 Q And I think you indicated earlier that's
11 not a paid position for you.

12 A No.

13 Q Approximately how many hours a month do
14 you dedicate to that position?

15 A Whenever needed.

16 Q Okay.

17 A I can do it from the road.

18 Q What -- what are your job
19 responsibilities as quality assurance director?

20 A Well, when we receive a complaint, with
21 the assistance of the training director, you
22 know, if they -- I will -- we look to see if
23 there's any value to it. We get a lot of
24 complaints that are just frivolous, so we don't
25 open QAs.

1 And if he thinks and I agree that
2 there's a QA needed, then I will select a board
3 and supply them with the appropriate information
4 and keep them -- answer questions for them and
5 ensure they get the information they need to
6 reach an appropriate -- I mean, appropriate
7 being, you know, a legitimate conclusion.

8 And then I will take and try to turn the
9 information provided from them into a reasonable
10 letter to be sent to whoever it's involved with.
11 And which is -- can be a little challenging. I
12 like to refer to it making chicken salad out of
13 you know what, I'm sure you can appreciate as an
14 attorney. So my primary function is to ensure
15 that there's a fair process they go through.

16 Q Now, how long have you held the position
17 of quality assurance director for?

18 A It really hasn't been that long. It
19 just -- it was between -- it was after the --
20 this started.

21 Q So sometime after Rob Stewart's death?

22 A Yes.

23 Q So that I believe was January 31st
24 of '17.

25 A Somewhere around there. It was after --

1 after the -- the first, I think -- after he was
2 suspended, it was after that point.

3 Q Okay. Okay. What did you do for IANTD
4 before you were the quality assurance director?

5 A Well, my official title was training
6 consultant, which means I can do just about
7 anything.

8 Q And within the list of just about
9 anything, what -- what were your general
10 responsibilities or functions?

11 A I was a general advisor. I was involved
12 in most anything going for -- if not -- you know,
13 if nothing else, for advice. I've assisted and
14 -- you know, if we had a -- so I've been
15 involved -- I've been involved with the QA for a
16 long time.

17 You know, we had to select a board and
18 sometimes that's kind of difficult to find
19 somebody that's -- you don't think is going to
20 have a predisposed opinion of the subject. So
21 trying to come up with three people that are --
22 you know, can be a fair, you know, jury for it.
23 And, you know, generally I know what's going on.
24 I get asked opinions on it.

25 Q When you say you're a general advisor,

1 who is it that you are advising?

2 A Well, Tom talks to me, Luis, Joe when he
3 was there. And he's back again. You know, I've
4 been an advisor for a long time.

5 Q Can you tell me approximately how long
6 you were an advisor for.

7 A 15 years or better. He might be able to
8 answer that about as good as I can.

9 Q Were you ever salaried or paid by IANTD?

10 A No. This is my hobby. If I start being
11 paid, I would have to charge them my time's worth
12 and they can't afford that.

13 Q Now, in terms of -- who was the quality
14 assurance director before you were?

15 A There wasn't one.

16 Q Okay. Who performed the quality
17 assurance director's job functions that --

18 A The training --

19 Q -- you do now?

20 A -- director.

21 MS. BIEWEND: Make sure he's finished.

22 A The training director.

23 Q Okay. And who was the training director
24 prior -- let me ask it this way. Who's the
25 current training director?

1 A Joe Dituri.

2 Q How long has Mr. Dituri been the
3 training director for?

4 A Several months.

5 Q Who was the training director before
6 Mr. Dituri?

7 A Mark Fowler. And he was for a couple
8 years.

9 Q Okay. Was Mr. Fowler the training
10 director at the time of Rob Stewart's death?

11 A Yes.

12 Q Okay. Was Mr. Fowler the training
13 director at the time that Mr. Sotis was
14 suspended?

15 A Yes.

16 Q And was there anybody in between that --
17 that had the position?

18 A No.

19 Q So he was the training director
20 continuously?

21 A For -- you're talking about Mark?

22 Q Yeah.

23 A He was -- from Joe's to when the --
24 between Joe. Joe to Joe.

25 Q And what are the -- what are the job

1 responsibilities for the training director?

2 A Well, it's a small agency. Okay. He
3 generally gets most of the training questions. I
4 can receive them also. He gives waivers. He
5 does the preliminary review for quality assurance
6 at least. And he gets involved. And right now
7 he's chairman of the board of advisors. He is
8 part of the team that actually develops training
9 programs, so -- and he's unpaid also.

10 Q When you say that the training director
11 receives questions, are those questions from --
12 who would they be questions from?

13 A Instructors.

14 Q And -- and you also mentioned waivers.
15 What -- when would -- what are waivers and when
16 would you require them?

17 A Okay. Let's say that you have a young
18 man that's two years younger than the age
19 requirement for a particular class, but his whole
20 family participates in that sport. It's not
21 uncommon for their parents to want him to be
22 trained with them, him or her. And then that
23 instructor would have to get a waiver for the
24 lower age for that particular person. And then
25 there would be a one-time waiver granted under

1 certain circumstances.

2 That one I've given you is not uncommon.
3 I can give a better explanation for the court.
4 That's a common one. The reason for the waiver
5 is they're going to do it anyway and the safest
6 thing we can do is train them, safety being the
7 utmost in any training decision.

8 Q And what would be a more uncommon
9 waiver? Any examples that you can think of
10 that --

11 A I'm -- most of the time it's age.
12 Sometimes somebody will be -- an instructor will
13 be going for a rating and they will be one
14 certification shy of meeting a prerequisite or
15 something like that, which is -- but they've got
16 a lot of experience elsewhere. So, you know,
17 that's a -- that's not an uncommon waiver.

18 Student-to-instructor ratio -- in some
19 classes we have two couples show up and the
20 student-to-instructor ratio is three. But you've
21 got four people and they dive together all the
22 time and they want to continue to dive all
23 together, so there's a waiver issued allowed that
24 one time for that ratio to be deviated from.
25 That's not an uncommon one. They're usually

1 minor in nature.

2 Q In situations where standards are
3 relaxed, is that the training director's decision
4 or are -- is anybody else involved?

5 A As of the official -- right now, and
6 that is that the board of -- the board of
7 directors is aware, okay?

8 Q So are they made aware or do they
9 actually participate and give an okay to the
10 request?

11 A Generally just made aware.

12 MS. BIEWEND: Object to form.

13 A There's more than -- you know, I've
14 given waivers too for -- as part of the staff
15 that when necessary -- and, you know, it's
16 just -- but it's as much to ensure that everybody
17 knows what's happening and nobody disagrees with
18 what's going on. Waivers are so minor. They
19 don't happen very often. It's a rarity and
20 something of a minor nature that just, you
21 know --

22 Q In terms of the training director's
23 role, you've indicated that he does some
24 preliminary review for QAs. So just using that
25 abbreviation, QA, what does that stand for?

1 A Quality assurance.

2 Q What types of -- what would be involved
3 in the preliminary review that a training
4 director would conduct for a QA?

5 A Well, one -- the most important thing is
6 make sure that it is a credible complaint, okay,
7 that they actually have a complaint that the guy
8 actually did something that wasn't according to
9 standards. And, you know, most -- most
10 complaints that come in to IANTD are frivolous,
11 okay? The instructor didn't certify. Okay.
12 Well, the instructor didn't certify because they
13 didn't -- you know, he didn't feel they were
14 qualified to be certified, that type of thing.

15 Q Would -- would -- in terms of the
16 preliminary review, would -- would the training
17 director try to assemble information that the
18 board would consider?

19 A Uh-huh.

20 Q And what types of things would he look
21 at or try to assemble?

22 A He would do the preliminary and he would
23 contact any potential witnesses that would -- you
24 know, and get -- you know -- to ensure there was
25 a credible complaint, you know, did somebody

1 actually see it and it was a credible complaint,
2 that's really his part.

3 Q Is that a regular routine practice and
4 procedure, to contact potential witnesses before
5 convening a QA board just to assess the actual
6 complaint?

7 A Yes, it would be. Because most of the
8 time we have people that want to complain but
9 don't want to put anything down in writing that
10 there's a complaint. So if it's not in writing,
11 it's hearsay.

12 Q Does IANTD ever act without a complaint?

13 A Yes.

14 Q Okay. What types of situations would
15 IANTD act with a complaint from the outside?

16 A If something's observed from the inside.

17 Q With respect to the death of Rob
18 Stewart, was that an external complaint or
19 something observed from the inside?

20 A That was the deal with -- anytime that
21 there is an accident or incident, that
22 automatically starts some sort of investigation
23 or we would be remiss in providing a safe program
24 for people that take their program. So if you
25 have any accident or incident, there are several

1 things that tend to be more automatic.

2 The first thing is -- if there's
3 definitely a fatality, the first general thing
4 that happens is, whoever the instructor is,
5 they're usually put temporarily, which can be for
6 a long time, on a nonteaching status to look and
7 see if there was an issue there. That is to
8 protect the general public in general, because
9 you don't know. And -- and so at least you can
10 sit down and find out has there been something
11 that happened that was felt to be unsafe. And
12 that's not derogatory against the instructor.
13 It's just for the safety of the public.

14 Q What else would happen in addition to
15 the possible temporary suspension of the
16 instructor?

17 A It's nonteaching status.

18 Q I'm sorry. Excuse me, nonteaching
19 status. I stand corrected.

20 A There is a difference.

21 Q There is a difference.

22 A Okay. Then there would be an
23 investigation. Yeah, that's generally what you
24 do.

25 Q Okay. And is there -- what would the

1 investigation entail?

2 A Going out and seeing what can be found,
3 you know, asking the instructor for his written
4 statement on what happened, that's the first
5 thing, actually, he's supposed to submit. He or
6 she is supposed to submit that automatically.

7 Q Okay.

8 A Okay. And whatever information that we
9 can go find to make as expedient outcome as we
10 can.

11 Q And can you give me examples of some of
12 the things that you might do.

13 A Go out and try to run down and find out
14 anybody that observed the accident, any people we
15 can get as witnesses. Sometimes this is
16 difficult because it becomes a crime scene. We
17 use any resource we can to try to come to a
18 reasonable conclusion and hopefully get the
19 instructor either put in a more permanent status
20 or returned to teaching status. You know,
21 it's -- it's -- you know, we try to get as much
22 as we can. And a lot of it has to do on how well
23 people want to talk.

24 Q Is there any type of written protocol or
25 even a checklist that IANTD has on file that it

1 follows when there is something that is triggered
2 internally as opposed to an external complaint?

3 A They're really the same protocol. You
4 know, all the -- if there's an accident, is that
5 internal or external? It's just if an accident
6 happens. It's not really a complaint. It's an
7 incident. So your question was about a
8 complaint. And that's not a complaint, but it's
9 an instance that automatically triggers
10 something.

11 Q But earlier you had indicated that there
12 were -- the reason I said it, just so you
13 understand -- and I want to make sure we both
14 understand each other.

15 A No problem.

16 Q You said that sometimes people can raise
17 complaints from the outside. And I think I asked
18 you whether there were things on the inside. So
19 that's where I came up with that distinction.

20 A That's a good one.

21 Q And I guess the logical question, then,
22 is, does an incident automatically trigger some
23 type of investigation?

24 A Like that, yes.

25 Q Okay. And is there any type of written

1 protocol that IANTD maintains that --

2 A We have one that we handle --

3 MS. BIEWEND: Make sure he finishes the
4 question.

5 THE WITNESS: Okay.

6 BY MR. BAYER

7 Q Is there any type of protocol that
8 wasn't listed that IANTD deploys after an
9 incident?

10 A We have a -- we have a procedure for
11 doing quality assurance. And that -- I think you
12 probably already have a copy of that. Other than
13 that, it's just the instinct to go investigate.
14 We use what resources we can.

15 Q In terms of Rob -- or with respect to
16 Rob Stewart's death, can you tell me what type of
17 investigation IANTD did?

18 A The training director at the time was
19 doing that. I know what's on file now. I'm not
20 exactly sure. I know that he requested
21 information from Peter. And there was some other
22 things that got involved. But most of that one
23 came from Peter and generally things that
24 occurred at the time.

25 Q What other types of things were

1 involved?

2 A Well, there was a certification that was
3 requested to be canceled three days after the
4 fatality.

5 Q Anything else that comes to mind?

6 A Not right off the top of my head.

7 Q Did IANTD interview any witnesses?

8 A I'm unaware of whether they did or not.

9 Q You indicated that there's a file. So
10 what -- can you tell me what you -- and I don't
11 expect you to tell me exhaustively what's in
12 it --

13 A I can't do that anyway.

14 Q -- but can you tell me as much as you
15 can about what you believe to be in it.

16 A Well, generally, in the file it's mainly
17 the -- the stuff that came out. There's Peter's
18 statements in there. There's the information on
19 the certifications. And there's the -- the files
20 that came out of the -- later depositions.

21 Q Okay.

22 A And that's about all I've looked at in
23 there. Most of it -- a big hunk of it came from
24 Peter.

25 Q With respect to the depositions, do you

1 recall whose depositions are in the file?

2 A No, not really.

3 Q Now, I know that you've reviewed Brock
4 Cahill's deposition.

5 A Yeah. And I'm glad you mentioned his
6 name because I could probably forget it tomorrow.

7 Q Did you look at Dan Dawson's deposition
8 transcript?

9 A I don't remember looking at Dan's at
10 all.

11 Q Do you know Dan?

12 A Not personally. I know who he is.

13 Q Okay. Have you ever dove with Dan
14 Dawson?

15 A No.

16 Q Okay. A guy by the name of Robert
17 Steel, he goes by the name of Bobby as well, who
18 was the mate on the boat the day that Rob Stewart
19 died?

20 A I don't know him.

21 Q Did you see his deposition transcript?

22 A I might have. But, like I said, I was
23 deliberately trying not to get too much of an
24 opinion.

25 Q What about the captain of the boat that

1 day, did you review his deposition?

2 A Nope.

3 Q Okay. Did you look at any types of
4 investigative reports?

5 A I glanced through it. I did some real
6 quick sight reading. I read very fast. I mainly
7 just got an idea of what's there.

8 Q Okay.

9 A Again, I'm going to reiterate that in
10 the function I'm now performing, I'm trying my
11 best to maintain a neutral ground, okay? That's
12 my function. And so I'm trying to maintain a
13 good opinion for that purpose and for the purpose
14 of I really don't want to ever get involved to
15 where I get called out and have to testify
16 involved in this one.

17 Q But at some point do you need to know
18 what's in the files or what the --

19 A I only need to know what was in those
20 files that was used by a QA board.

21 Q Okay.

22 A My job is not to tell them what to do.
23 My job is to take what they came up with, prepare
24 a written response to whoever it is as accurate
25 as possible, and ensure that that individual

1 received a fair process. That is my function.

2 In other words, I try to be an unbiased, fair
3 arbitrator.

4 Q Now, you told me earlier today with
5 respect to your position that as the quality
6 assurance director, that you select a board when
7 it's convened. You supply them with information,
8 I think.

9 A Right.

10 Q You try to keep them on target, moving
11 towards a conclusion, and then ultimately that
12 may result in an action or no action letter.
13 Action or no action is my term, but --

14 A That's as good of a term as any.

15 Q So in terms of just looking at those
16 individually and as they relate to the Rob
17 Stewart investigation, tell me who you selected
18 to be on the board as it relates to Peter Sotis'
19 credentials.

20 A I assisted in that --

21 Q Okay.

22 A -- which I did, so I won't fib on that
23 one. I'm going to be as honest as I can.

24 Q But that wasn't you exclusively?

25 A No.

1 Q There were other people involved?

2 A That would have been my previous self as
3 just a general consultant.

4 Q Okay.

5 A But I've done that many, many times. We
6 were looking for, first thing, somebody that we
7 felt had not competed with Peter, that didn't --
8 there was no -- had no ax to grind, preferably
9 somebody that hadn't trained him. And since I
10 think Tom and I had most of that privilege,
11 that -- and would be fair.

12 Q When you say we, who is the we?

13 A With Tom, myself, Luis, and Mark.

14 Q And when you say that you and Tom did
15 most of the training, are you referring to Peter?

16 A I did some training for him. And I
17 think Tom was the instructor of record for most
18 things. I've known him a long time.

19 Q And you've also provided some
20 instruction to Peter Sotis; is that correct?

21 A Yes.

22 Q And I always get confused with the
23 extensions here. But you gave him his instructor
24 trainer trainer certification?

25 A I gave that and I also -- and that's not

1 really given. That's more of an honor.

2 Q Okay.

3 A That's more administrative. He earned
4 that one. It's under -- those come and go, okay?
5 It's mainly you're performing duties of IANTD
6 staff. That's for an IT that's been around a
7 long time and it's a little different type of
8 rating. I think I did his CCRK, if I remember
9 right. I don't remember, you know, like I say.
10 I'm very familiar with Peter.

11 Q Okay.

12 A I mean, if you've noticed, we're not
13 enemies today. I tend to keep it that way.

14 Q No, I don't think there's hostility
15 between the two of you and I'm not here to create
16 any.

17 A But the one thing I want to emphasize in
18 my role here in the whole thing, my function is
19 to ensure that, one, I protect the industry, and
20 I ensure that whoever is on that opposite side
21 gets a fair hearing.

22 Q Okay.

23 A And that's why I took the job.

24 Q Now, with --

25 A I'm stupid.

1 Q Maybe thankless. I don't know. I can't
2 comment.

3 A Probably.

4 Q You indicated the next step is you
5 supply the board with information.

6 A Right.

7 Q What information did you supply the
8 board with in this particular case?

9 A In this particular case -- and I
10 assume --

11 Q I'm referring to Rob Stewart's death as
12 it relates to Peter.

13 A As the final information bit, I took all
14 of those depositions and ensured that they got a
15 copy of them so they could study them. That's
16 for them to study.

17 Q Okay. Well, let me just break off here
18 because --

19 A Yeah.

20 Q -- I just want to make sure that I have
21 a very -- a logical timeline. At the time of
22 Peter's initial suspension, those depositions
23 hadn't been taken.

24 A No.

25 Q So I guess I'm looking now more towards

1 what was supplied to the board in conjunction
2 with the process that led to Peter's two-year
3 suspension from the IANTD.

4 A Okay. I'm trying to stay where I'm
5 accurate and not putting any assumptions in.
6 It's easy to assume. His suspension was meant
7 only as something to hold and not expel him till
8 such time further evidence could be acquired and
9 not expel him. And there was actually two votes
10 to expel and one to suspend. And the suspension
11 was till such a time that other evidence could be
12 acquired. And that was based, to my
13 understanding, primarily on the certification
14 process that was not -- that was, you know --
15 what was involved in that. Now, since I was not
16 one of those three, I'm giving you some
17 assumption there --

18 Q Okay.

19 A -- okay, but I'm also going from having
20 read the e-mails and stuff that came out of that.
21 Is that the answer you wanted or did I say too
22 much?

23 MS. BIEWEND: Can we take a break?

24 MR. BAYER: Yes.

25 (Recess from 1:15 p.m. to 1:17 p.m.)

1 BY MR. BAYER:

2 Q Getting back to where we left off, I
3 think you -- I'm going to summarize, you correct
4 me if I'm wrong, that the initial two-year
5 suspension letter was -- I'll summarize that it
6 was not necessarily intended to be the final
7 action against Peter.

8 A No. It was not intended to be the final
9 action.

10 Q Does it indicate anywhere within that
11 letter that --

12 A Yes, it does.

13 Q -- they're continuing to investigate?

14 A Yes, it does.

15 MS. BIEWEND: I'm going to have to
16 remind you -- and I'm sorry to have to keep
17 reminding you. Make sure he finishes his
18 question. I just want to make sure what he's
19 asking and the way you're answering
20 corroborate with each other. And when you
21 get the piece of paper and you're not hearing
22 it, when you're reading it, it comes across
23 differently.

24 THE WITNESS: Okay.

25 MS. BIEWEND: And it's human nature, you

1 know. You think you know what he's going to
2 ask you, but there's a chance that in his
3 mind he hasn't really asked you the question
4 you're answering.

5 MR. BAYER: And it makes it easier for
6 her.

7 MS. BIEWEND: The less ambiguity, the
8 better.

9 THE WITNESS: I talk too fast.

10 BY MR. BAYER:

11 Q It's all right. And I think you also
12 indicated to me that two of the three people on
13 the QA committee for Peter, that two preferred
14 expulsion and one preferred suspension.

15 A Right.

16 Q Okay. Are there minutes that are kept
17 of the meeting of this board?

18 A There were e-mails passed back and
19 forth. And I'm assuming you have copies of
20 those. So since I helped find some of them, I'm
21 assuming you found some of them.

22 Q So the e-mail exchange is the --

23 A Yes. It's a difficult thing to deal
24 with. But when you've got people in Brazil and
25 South Florida and three different places

1 communicating, the written communication is
2 usually via e-mail. And getting dive
3 professionals to keep minutes is kind of like
4 trying to push a rope.

5 MS. BIEWEND: Not going to happen unless
6 they have their own secretary.

7 Q Understood. But in fairness to the
8 person who's not on the receiving end of the
9 discipline, it's my job to find out what exists
10 or doesn't exist.

11 A Yes, I know.

12 Q So --

13 A Good question.

14 Q So the -- the e-mail exchange, then, is
15 the final word of the people on the QA committee,
16 correct?

17 A Correct.

18 Q Okay. And then who makes the ultimate
19 decision, is it Mr. Mount or is there a group
20 that sits above him? Is it you?

21 A Actually, it's the board of directors,
22 which is the owners.

23 Q Okay.

24 A They don't -- they are the appeal
25 process. And so I would say by that case, they

1 do have the final say. They're the owners. And
2 they're the ones that appeal too. The board --
3 that panel is the -- normally have the final say.
4 I've not known them to be overridden. They
5 weren't overridden in this case. They just -- it
6 wasn't a unanimous -- and there was some logic in
7 not doing it and fairness to it. It went to the
8 fairest conclusion.

9 Q Now, I think you told me that the -- the
10 primary ground for the suspension was the issue
11 with the certifications and then the --

12 A To my understanding, yes. Since I
13 didn't vote on the board and I wasn't in their
14 minds, I can't definitely say that. But from my
15 reading of the documents, the -- you know, there
16 probably were other reasons. That's the one that
17 stuck out in my mind --

18 Q Okay.

19 A -- because of the -- the one that voted
20 to not expel.

21 Q Okay.

22 A Okay.

23 Q Wait. So are you saying you were the
24 one who voted not --

25 A No, I was not able to vote on that.

1 Q Okay.

2 A But I said the one that voted not to
3 expel, that was the primary thing that he used
4 that I know because that was -- he was probably a
5 little more verbal in his e-mail than the others.

6 Q What is your understanding of what
7 happened with that certification issue?

8 A The certifications were sent in.
9 They -- three days after the death, they were
10 requested to be withdrawn, which can't happen.

11 Q Now, did Peter Sotis send those in or
12 did someone at Add Helium send that in?

13 A The instructor -- our instructor trainer
14 is 100 percent responsible for that process. If
15 he loses control -- he or she loses control of
16 that process, he is both responsible and liable.
17 You cannot give that away. In other words, I
18 might have my wife e-mail something for me, but
19 I'm still responsible for that. So if --

20 Q Is that something that's specifically
21 stated in the IANTD standard?

22 A I would say -- I couldn't find you
23 exactly where it says that, but it's -- the only
24 person that can certify is the instructor.

25 Q Okay. But does it say in the case of

1 erroneous or improper certification that the
2 discipline lies with the instructor?

3 A The responsibility lies with the
4 instructor.

5 Q Does it say that in the standards?

6 A He's the only one that can certify them.

7 Q Okay. But does it -- answer my
8 question, please. Does it say that in the
9 standard?

10 A It's implied.

11 Q It's implied, but does it --

12 A It does say he's the only one that can
13 certify.

14 Q But does it specifically say -- does it
15 specifically address the scenario where there may
16 have been a certification sent in by an office
17 and when the responsible party, in this case
18 Peter, found out and explained what had happened,
19 requested that it be retracted?

20 A Does it say that exactly? I don't know
21 where I could find it that way.

22 Q Okay.

23 A But there's a lot of things that's not
24 said exactly.

25 Q Okay. But in a case like this where

1 you're dealing with somebody's livelihood and
2 their credentials, what -- what portion of the
3 standards then in effect at the time Peter was
4 given his two-year suspension, delineated the
5 ramifications of a mistaken certification or an
6 erroneous certification?

7 A This was highly unusual, that three days
8 after a fatality a certification is pulled. To
9 my knowledge, it has never happened before. To
10 my knowledge, Peter had never sent in a
11 certification that he'd asked back before. And
12 he is responsible for the validity of those
13 certifications.

14 You know, it's like this. If I've got a
15 signature stamp -- and I had one of those. And I
16 don't know whether you do or not -- and I let my
17 secretary have it, I'm still liable for that
18 signature. It's just common law.

19 Q Okay. So but yet, returning --
20 returning to my question. Is there anything in
21 the standards that addresses this?

22 A Other than common law, no.

23 Q And is -- where would I find the
24 reference to common law?

25 A You're an attorney.

1 Q Okay. But does it say in the standards
2 look to the common law?

3 A No. But sometimes there is a certain
4 amount of common sense.

5 Q Sure.

6 A That's not your job today, but --

7 Q But it is my job. And to the extent --
8 do you know whether those certification cards
9 were tendered either to Mr. Cahill or to
10 Mr. Stewart?

11 A No, I don't know exactly what happened
12 to them.

13 Q Okay. And are you aware that they are
14 still in IANTD files and that they were never
15 provided --

16 A They were never rescinded.

17 Q There was a request to rescind them,
18 correct?

19 A To my understanding there was a request
20 to do that.

21 Q Okay. And -- but as you sit here today,
22 you don't know whether or not those
23 certifications were ever communicated to either
24 Mr. Stewart or Mr. Cahill, correct?

25 A I -- to my knowledge I don't know

1 whether they ever received them because I don't
2 remember what the cert- -- if I send a
3 certification -- that way she can get this and
4 you can understand it. When I send a
5 certification in, okay, it goes in and I mark on
6 that whether it's going to the student or to me.
7 I don't know what was marked on it, whether it
8 was marked to go to Peter's address or to the
9 student's address. So I can't give an answer to
10 that question because it's been marked. If it
11 was marked to go to the student, then it might
12 have gone out.

13 Q Okay.

14 A In three days, it very likely went out.

15 Q But are we talking about suspending
16 Peter for issuing a certification that never
17 issued to the students, do you know one way or
18 the other?

19 A No.

20 Q Okay. Don't you think that would have
21 been important in making the certification
22 suspension --

23 A That wasn't a certification suspension.

24 Q -- the training credential suspension?

25 A They could have expelled him. That was

1 two votes.

2 Q Well, I understand that. But my
3 question is, did everybody have all the facts?

4 A All the facts that were available at the
5 time, yes, I would think they had them.

6 Q Did anybody call Peter and say -- or
7 Dave, the office administrator, and say, did you
8 tender those -- issue those cards to Mr. Stewart
9 or Mr. Cahill?

10 A I don't know the answer to that
11 question.

12 Q But don't you think that would have been
13 important?

14 A Not necessarily.

15 Q Okay. So it doesn't matter to you
16 whether they ever got to the students or not?

17 A No. Yeah. No, not really. Once
18 they're issued, we all have certifications out
19 there that we wish we had not made.

20 Q Okay. But in this particular case, are
21 you familiar with -- what is your understanding
22 of the reason why Add Helium requested that the
23 certifications be rescinded?

24 A No.

25 Q You don't have any understanding of what

1 happened?

2 A Okay. Give me the question again.

3 Q The question was, do you have an
4 under- -- let me ask it this way first. Do you
5 have an understanding or do you know why Add
6 Helium requested that the certifications be
7 rescinded?

8 MS. BIEWEND: Object to form.

9 A No. I would say no, not really.

10 Q Okay. So simply, then, the action -- am
11 I correct to assume that the action was largely
12 based on the fact that the certifications had
13 been issued without any investigation as to the
14 circumstances giving rise to the request for
15 rescission?

16 A You're -- I'm -- you're picking up from
17 a question I answered, which was my assumption,
18 okay, from reading an e-mail written by one of
19 the people. You would have to ask that
20 individual to get the absolute answer, not me --

21 Q But as -- as the --

22 A -- because I didn't make that vote.

23 Q As the reviewer and as --

24 A Observer.

25 Q -- the observer or certainly let's just

1 say the buffer level, I'll call you, between the
2 two board members and the three people who
3 investigated it, do you ever look at what they
4 examined and say, did you consider, or you won't
5 weigh in at all?

6 A At that time that was not my function,
7 okay? At that time that was not my function.

8 Q Would you do that today?

9 A I would ensure today that they had all
10 their questions and -- they had all the
11 information that was possibly available.

12 Q Okay. And you would be the one that
13 would make that decision?

14 A Today, yes.

15 Q Okay.

16 A Not during the --

17 Q If this happened today, would you have
18 investigated the reason that these certification
19 rescissions were requested?

20 A I don't know if I would or not exactly.
21 That one is hard -- hard to -- because I now know
22 more information, that I'm trying to stay out of,
23 than was available at that time.

24 Q Of the -- in addition to this
25 certification issue, do you know what other facts

1 or issues weighed into the three members'
2 decision for a suspension?

3 A I know what information they had. I
4 can't read their mind.

5 Q Okay.

6 A And, you know, pointblank, they -- you
7 know, it's three people's opinion from what
8 information they had. It's been that way for a
9 while and it's worked for a while.

10 Q It's worked for a while, but working for
11 a while doesn't mean that it's necessarily a fair
12 or correct procedure.

13 A In your case I would probably take that
14 side. In my case I think it's fair.

15 Q Okay.

16 A Okay.

17 Q Now, since the -- Peter's suspension,
18 has -- has -- you've assumed this role as quality
19 assurance director.

20 A Yes, I have.

21 Q Okay. What action have you, as quality
22 assurance director, taken with respect to the
23 status of Peter's suspension?

24 A He's still suspended --

25 Q Okay.

1 A -- because I can't -- that has a time
2 schedule on it. Okay. And I'm assuming -- yeah,
3 that's the -- you know, not changed his status.

4 Q Have you requested any additional
5 investigation?

6 A There was a request to him. We've
7 reactivated the thing. We have additional
8 information. And he has the request to him that
9 he should have had a couple days ago to give him
10 30 days to give us his side of the story.

11 Q Okay. I understand. And I have that.

12 A I know, that's why I'm saying --

13 Q If I was trying to hide it from you, I
14 would have turned it over.

15 A So we're asking for his opinion and he's
16 got 30 days to do that.

17 Q But I guess my question is, what -- what
18 has IANTD done to further investigate?

19 A Now we have all of those depositions,
20 which we did not have --

21 Q Okay.

22 A -- which has raised a lot of issues,
23 which we did not have.

24 Q Okay.

25 A Some of them were assumptions, but now

1 they're no longer assumptions.

2 Q Okay. What issues in those
3 depositions -- are -- are all the -- let me ask
4 it this way.

5 Are the issues you found most important
6 delineated in your September 11th letter to Peter
7 Sotis?

8 A Those are the issues delineated by the
9 board.

10 Q Okay.

11 A Those are not my questions.

12 Q Now, were the deposition transcripts
13 requested by IANTD or were they --

14 A I have no idea how they got there.
15 They're there.

16 Q They're there?

17 A They're there.

18 Q Okay.

19 A Since they're public records and -- and
20 now we have some standing to get them, I would
21 assume that somebody got them there. You know,
22 it's not hard to get those things.

23 Q They're only public record when they're
24 filed with the court.

25 A Right.

1 Q Other than filing with the court -- and
2 I'm going to ask you to assume that no deposition
3 transcript has yet been filed with any court --

4 A I don't know.

5 Q -- so -- which means that the deposition
6 transcripts themselves are in the control of the
7 lawyers in the Stewart litigation and whoever
8 they chose -- choose to share them with.

9 So my question is, do you have any idea
10 how --

11 A I don't know exactly where they came
12 from. I don't know. I know that they were
13 transmitted and that we have them on file.

14 Q Okay.

15 A That's all I know for a fact. And I'm
16 not going to make any assumptions.

17 Q And you haven't read those depositions?

18 A I haven't thoroughly studied them
19 because I don't want to -- I'm not making a vote
20 and I want to be able to be as neutral as I
21 possibly can to be a fair, neutral arbitrator.

22 Q How -- how do the people on the quality
23 assurance review committee reconcile conflicts in
24 deposition testimony, that is situations where
25 two people testify completely different about

1 what happened?

2 A They've got to do it -- you know, it's
3 like a -- like on any other jury.

4 Q Okay.

5 A You know, it's up to them to make that
6 determination and not be influenced by anybody
7 external on how they do that.

8 Q Okay. So anyway, let's go through your
9 letter. We all know that --

10 A Yeah.

11 Q -- it's the next thing here.

12 A That's what I was expecting.

13 Q Okay. So I will mark this as Exhibit 1
14 to your deposition. So initially, let me ask you
15 if you recognize what we've now marked as Exhibit
16 Number 1.

17 (Plaintiff's Exhibit No. 1 was marked
18 for identification.)

19 A Yes, I do.

20 Q Can you tell me just in general terms
21 what this is.

22 A That's the letter that I sent to
23 Mr. Sotis on the 11th of this month.

24 Q Okay.

25 A And it's basically requesting his -- him

1 to answer these questions --

2 Q Okay.

3 A -- which is getting his opinion.

4 Q Starting with the first sentence. It
5 says, The QA board has been reconvened to
6 consider further information that has come to
7 light in regard to this matter. So first
8 question, who is on the QA board? Who --

9 A The original three.

10 Q So that's Mr. Dituri, Mr. Fowler --

11 A No, Mr. Fowler is a trainer.

12 Mr. Dituri, Mr. Possatto, and Mr. Hill.

13 Q Okay. Were they -- was the board asked
14 to reconvene or were they instructed to
15 reconvene -- strike that.

16 Did the board reconvene on its own or
17 were they asked to reconvene by IANTD?

18 A They -- if you have the first letter
19 that he was sent, they -- I don't know if they
20 were ever unconvened [sic].

21 Q Okay.

22 A So when they were -- but at this point
23 they were sent one and provided with the
24 additional information --

25 Q Okay.

1 A -- and reconvened.

2 Q Okay.

3 A So I would say, you know, it would be an
4 IANTD said it's time to do it. So I would say
5 IANTD reconvened, but it wasn't really
6 unconvened.

7 Q But as far as taking any type of step to
8 provide some type of information to have the
9 board either take further action or take no
10 further action, that was done by IANTD, correct?

11 A Yes.

12 Q Do you know when that happened?

13 A A couple weeks prior to that letter,
14 sometime in that range. I don't have the exact
15 date down in my head.

16 Q Okay. Do you know who within IANTD
17 provided this additional information to the
18 board?

19 A I did.

20 Q Okay. How did you provide this
21 information to the board?

22 A Okay. I think I explained that earlier,
23 when I provided a Dropbox link. And since one is
24 not exactly computer literate, we sent that in a
25 zip drive.

1 Q What is in the Dropbox?

2 A The Cahill and all that stuff. All
3 those depositions and --

4 Q I need you to tell me as specifically as
5 you can whose depositions you remember being --

6 A I remember there's several audiotapes.

7 Q Okay.

8 A There's -- Cahill's is in there. And I
9 don't remember all of it. There's a whole bunch
10 of them.

11 Q Okay.

12 A It was a fairly good list of stuff. It
13 was a lot of reading had I decided I wanted to go
14 through it. And since I didn't feel a need to
15 make an opinion, I didn't go through it.

16 Q Was Dan Dawson's transcript provided?

17 A I don't remember his being in there or
18 not.

19 Q Was Jeff Knapp's deposition transcript
20 in there?

21 A I don't remember.

22 Q Was Bobby Steel's deposition transcript
23 provided?

24 A I don't remember.

25 Q Was the captain's deposition provided?

1 A I don't remember.

2 Q Okay. So the only one you remember as
3 you sit here today is Brock Cahill's deposition
4 transcript?

5 A I remember what was specifically
6 requested, which these are derived from, from the
7 QA board.

8 Q You mentioned some audiotapes.

9 A Yep.

10 Q What audiotapes were provided to the
11 board?

12 A I didn't listen to them. But I know
13 there were audiotapes in the files provided to
14 them. And from my understanding from glancing
15 through them, there were audiotapes of the --
16 some of the classes that actually -- audiotapes
17 from the classes.

18 Q Okay. Do you know who provided those
19 audiotapes?

20 A No.

21 Q Okay. Do you know who recorded those
22 audiotapes?

23 A I think Mr. Cahill did.

24 Q Okay. Do you know whether Mr. --

25 A And I assume Mr. Cahill did.

1 Q Have you ever spoken to Mr. Cahill?

2 A No.

3 Q Okay. Do you know whether Mr. Mount or
4 Mr. Pedro has ever spoken to Mr. Cahill?

5 A I don't think they have.

6 Q Okay. Do you know how it is that
7 Mr. Cahill came to provide that information, the
8 audiotapes --

9 A No.

10 Q -- to IANTD?

11 A No.

12 Q Okay. You -- you --

13 MS. BIEWEND: Object to form.

14 Q IANTD, just so we're clear, has
15 audiotapes that you believe came from Mr. Cahill.
16 But as you sit here today, you have no idea how
17 those audiotapes found their way to IANTD?

18 MS. BIEWEND: Object to form.

19 A No.

20 Q Do you know -- and I'm not asking you
21 what he said to you or what you said to him. Do
22 you know if Mr. Jenni provided those audiotapes
23 to IANTD?

24 A No.

25 Q When you say further information has

1 come to light in regard to this matter, what
2 information, if any, were you referencing?

3 A I was referencing the depositions.

4 Q Okay. Did you and either Mr. Mount
5 and/or Mr. Pedro have any discussions about what
6 was in those deposition transcripts?

7 A There was discussions going on. And I
8 gave them the same answer I'm giving you. I
9 really don't want to get into it because I don't
10 think it's appropriate for me to make a decision.
11 And I will not change that statement because
12 that's the way I feel is only proper with this.

13 Q Do you know whether Mr. Mount or
14 Mr. Pedro had any discussions with any of these
15 three individuals?

16 A No.

17 Q Okay. Is that no, you don't know, or
18 no, he didn't?

19 A I don't know.

20 Q Okay. In the next sentence, you provide
21 the sworn deposition of Mr. Brock Cahill, which
22 included the associated audio from the actual
23 class, and the data from Rob Stewart's Pretel
24 computer were reviewed. So I have a bunch of
25 questions about that sentence.

1 A Okay.

2 Q Again, you don't know -- I'll just ask
3 you directly. You have no idea who provided
4 Mr. Cahill's deposition transcript to IANTD?

5 A I really don't know exactly where it
6 came from. I mean, you know, we've got
7 attorneys. There's all sorts of things where
8 they can legitimately be picked up. And I'm
9 assuming that they were legitimately picked up
10 for use. I mean, it's not -- they're not private
11 anymore.

12 Q Well, they -- but when you say you
13 assume they were legitimately picked up for
14 use --

15 A Yeah.

16 Q -- can you be more specific.

17 A I -- you know, I figured it's -- you
18 know, since I wasn't in town during this whole
19 process and, you know, I don't really know
20 exactly what they do, you know, where they came
21 from, I don't know whether they asked their
22 attorney to get it or requested it from another
23 attorney. I really don't know.

24 Q Okay. When you say they, who would you
25 be referencing?

1 A I'm assuming it would be Tom and Luis.

2 Q Are you aware of any other attorneys who
3 they might have requested it from other than
4 Mr. Jenni, Donna Albert or an attorney at the
5 Fertig law firm that represents Horizon?

6 A We've got attorneys too.

7 Q Okay.

8 A So, no, I don't know which one they
9 actually went to.

10 Q Okay. When you referenced the -- and
11 I'm quoting, the associated audio from the actual
12 class, did you receive -- which classes are you
13 referring to, first?

14 A The Trimix classes.

15 Q Were you provided all the audio from the
16 entire Trimix training class or were you provided
17 with snippets of audio?

18 A I would say they were snippets --

19 Q Okay.

20 A -- from what little I listened to them.

21 Q So you would agree with me, then, that
22 you may not have had all of the training
23 audiotapes in your possession?

24 A I would hope not.

25 Q Okay. And so you would agree with me

1 that what was provided to the board in terms of
2 audiotapes may not have been a full and complete
3 set of the actual training?

4 A I wasn't there.

5 Q Okay. Do you have -- what was -- was
6 there something that you personally found
7 objectionable or improper in the audiotape sound
8 bites that you listened to?

9 A I listened long enough to know it was
10 Peter's voice there and there was a tape and I
11 went on because I did not want to make an
12 opinion.

13 Q Okay.

14 A I keep getting back to that. I do not
15 have -- I'm trying to do my best not to have a
16 personal opinion here so that I can fairly handle
17 this and be a fair arbitrator between Peter and
18 the board. And I sincerely hope that he gives me
19 a good response and we can send it to the board.

20 Q And, again, we don't -- you don't
21 know -- you do not believe as you sit here today
22 that the entire audio transcript of the entire
23 class was provided?

24 A I don't know. But I don't -- you know,
25 it's a long class.

1 Q Okay.

2 A I didn't listen to the whole gamut of
3 it, so I don't know how many hours of lecture is
4 there. So actually, I don't know.

5 Q Okay.

6 A If that -- to clarify my answer, I
7 really don't know because I would have to listen
8 to the whole class. And then I would have to
9 make some sort of opinion, which I did not want
10 to make.

11 Q In with respect of -- you also provided
12 data from Mr. Rob Stewart's Pretel computer was
13 reviewed. Did you personally look at the data
14 downloads?

15 A Yeah, I glanced at those.

16 Q Do you know how IANTD came to be in
17 possession of those data downloads?

18 A I assume they came from the same place
19 everything else came from.

20 Q Do you know whether Mr. Stewart had more
21 than one dive computer with him that day?

22 A No.

23 Q Do you know whether he had a NERD with
24 him as well?

25 A Well, a NERD is a NERD. I don't know if

1 they're even downloadable anymore because I don't
2 use a NERD.

3 Q Okay. But as you sit here today, you
4 don't know whether -- strike that.

5 As you sit here today, you don't know
6 whether or not IANTD had any -- had data
7 downloads from any other dive computers?

8 A I don't know whether they do or not.

9 Q Do you know if IANTD participated in any
10 way in the examination of the dive equipment, the
11 naval exploratory dive unit inspection?

12 A I'm not sure if they did or not.

13 Q Did you look at Mr. Cahill's data
14 downloads from his computer?

15 A I don't remember if I did that or not,
16 to be honest with you.

17 Q Did you look at the data downloads from
18 Peter Sotis' computer?

19 A No.

20 Q Do you think it would have been fair to
21 provide the board with everyone's data downloads?

22 A Well, Peter's got the option to send
23 them that.

24 Q Do you know whether or not photographs
25 were taken of Mr. Sotis' computer subsequent to

1 Rob Stewart's death?

2 A He had the opportunity to provide it.

3 Q Okay. But I'm asking you.

4 A I'm not aware. But he had the
5 opportunity to provide it.

6 Q Okay. Do you know whether your, I'll
7 call it, source or sources provided that
8 information to you from Peter?

9 A I would have to go back and review the
10 data. I wasn't looking particularly for
11 downloads. I provided the data to somebody else.

12 Q Now, you say the QA board was concerned
13 and found disturbing the apparent lack of certain
14 IANTD standards. What particular standards are
15 you referencing?

16 A The ones they were referencing here is
17 the minimum dives required for a class.

18 Q And which version of the standards are
19 you relying on?

20 A I'm not sure. You would have to ask
21 that board member because I'm just repeating what
22 was -- basically their information.

23 Q Can you tell me is this one board member
24 or -- when you say the QA board or was it all
25 three board members?

1 A This one here I think came -- you know,
2 whether they're talking for themselves or they're
3 talking for the board is very difficult to pick
4 up in those e-mails. But all the -- the entire
5 board is looking at all of those e-mails, so
6 I'm -- the assumption is it's always from the
7 whole board. And the information goes back to
8 the entire board.

9 Q What understanding, if any, do you have
10 as to the certifications that Rob Stewart and
11 Brock Cahill had at the beginning of this dive
12 chart?

13 A Well, at the beginning of the dive
14 chart, what information that IANTD had at that
15 point, they were full CCR Trimix, which is at the
16 beginning of the chart.

17 Q To what depth?

18 A That would be 330 feet, 100 meters.

19 Q Do you know the depth of the water at
20 the Queen of Nassau wreck?

21 A 230, 240.

22 Q Have you dove that yourself?

23 A A long, long time ago.

24 Q And do you know if the -- assuming --
25 let's just say for argument's sake that the --

1 there's a question regarding the full
2 certification that Add Helium sought to revoke.
3 What -- what certification level did they have
4 below that level?

5 A Below? Well, if they revoked the
6 certification, they should not have been at that
7 depth.

8 Q Well, they did have -- each had a
9 200-meter certification, correct?

10 A 200 meters?

11 Q 200 -- yeah.

12 A 200 feet, not meters.

13 Q Yeah.

14 A The highest is only 100 meters.

15 Q Yeah.

16 A They would be below that certification.

17 Q Okay. What certification did you
18 understand them to be at without --

19 A It depends on whether I want to take
20 this question here -- off of here or whether one
21 of the board member's questions, that they had
22 any, because 23 total hours would not qualify
23 them for even 200 feet. Or if they had the
24 Normoxia, which requires 50 hours -- okay, 25
25 dives, 50 hours, then they can go to 200 feet.

1 But 200- -- you know, that's beyond -- that's 2-.

2 Q Do you know whether Mr. Stewart had any
3 other dive computer other than the one that you
4 looked at?

5 A I don't know.

6 Q So is it possible that he had more time
7 that you're just not aware of?

8 A That's why we're asking him to make the
9 statement.

10 Q You provided that, according to the same
11 dive computer, on the day of the accident, there
12 were three dives made at depths of 227, 224, and
13 218 feet. Is that based on your observations or
14 the board's observations?

15 A The board's observations.

16 Q Okay. And this, again, is based on
17 whatever information it was that was --

18 A That he was looking at at that time.

19 Q That was in that -- excuse me. Whatever
20 information that was in either the Dropbox or the
21 zip drive provided to the board?

22 A Right.

23 Q You provide that Mr. Cahill also
24 testified under oath in his deposition each of
25 those three dives the day of the incident was not

1 commenced with a freshly packed scrubber. What
2 IANTD standard requires a fresh scrubber for each
3 dive?

4 A It is in the training literature, not in
5 the standards.

6 Q Okay.

7 A And you start each deep dive with a
8 fresh scrubber.

9 Q And was that -- I'm sorry. You said
10 that it was in the --

11 A Training material.

12 Q Okay. And was that the same training
13 material that was in effect on the date of the
14 dive or had that been modified since the date of
15 the dive?

16 A I'll put it this way. I've been
17 teaching that class for a long time. And the
18 hypothesis is that you should always start and we
19 always start a deep dive with a fresh scrubber
20 due to the pressure and everything else. And
21 we're really not sure 100 percent at what rate
22 that scrubber is being used. So we start those
23 deep dives fresh, okay? And I do.

24 Q Why not include it in the standard,
25 then?

1 A If I put everything that is common
2 practice in a standard, you couldn't read it.

3 Q Well, the goal of the standard is
4 safety.

5 A It is. And you put everything -- you
6 have training literature, you have that. But you
7 can't get to the point of saying, okay, you stop
8 before you cross the road and look each way. But
9 it's common sense you're going to stop and look
10 each way before you cross the road. There are
11 certain things that are in there that are part of
12 the training now, you know.

13 Now, if it comes -- for some reason it
14 appears that some people aren't understanding it,
15 then standards are revived to make sure they do
16 understand that. But since -- you know, that's
17 the practice that I was taught that has been
18 taught. It's considered the acceptable safe
19 practice. Yeah, it's, you know -- and it's the
20 practice apparently that gentleman there was
21 taught. So it has not changed.

22 Q Do you know which of the three -- strike
23 that.

24 Is the -- the information that's
25 requested here, is this -- is this unanimous from

1 the three members or is this a composite of
2 different things that were of concern to
3 different members?

4 A I would call it a composite. The only
5 thing that is unanimous is the vote.

6 Q When you say the only thing that's
7 unanimous is the --

8 A Only thing is to make sure it's reported
9 per member and all three of them are kind of
10 equal would be the vote.

11 Q The vote? I thought you said boat. I
12 apologize.

13 A At least that's the way I handle it.

14 Q As we sit here today, though, is there a
15 standard that addresses scrubbers and the
16 changing of scrubbers?

17 A After this came up, I think that we did
18 put it very bluntly and said that, okay, you're
19 supposed to be teaching by what's in the training
20 material. And just to make sure that you
21 understand, since you teach it, you've got to
22 follow what you teach, I think it was moved into
23 the standards. Personally, I think that was
24 unnecessary. Because if it's in the training
25 material and you're supposed to teach it, you're

1 supposed to follow it.

2 Q But it didn't find its way into the
3 standard until after Rob Stewart's death,
4 correct?

5 A Sometimes you've got to fix it.

6 Q When you dive do you always change your
7 scrubber?

8 A Yeah.

9 Q Every single time?

10 A Every single deep dive. Not every time
11 I dive, but every single deep dive.

12 Q What do you classify as a deep dive?

13 A Any dive deeper than 200 feet.

14 Q And so if you were above 200 feet, you
15 wouldn't necessarily --

16 A No.

17 Q -- change the scrubber?

18 A No. If I'm in a class, I change them
19 daily if I'm not going deep.

20 Q Okay.

21 A But I normally only do one dive above
22 200 feet a day.

23 Q Is there anything in the standards that
24 limits the number of deep dives that you can do
25 per day?

1 A If you take -- and you have to go back
2 through it and read it. You've got to have the
3 appropriate surface intervals and all of that.
4 You can -- you can do a second dive. I don't
5 normally do that myself. There's too long of a
6 wait, too long of a surface interval. And if I'm
7 going to do one, I will do a shallower skills
8 dive that's not a deep dive.

9 Q Do you have any understanding of how it
10 is that Rob Stewart came to accompany Peter on
11 that third dive?

12 A Really don't care.

13 Q Okay. So it doesn't matter to you
14 whether he --

15 A Well, that would require -- I can give
16 you one -- okay. I don't carry students on work
17 dives. So I really would rather not delve into
18 that subject. I don't take students on work
19 dives. That third dive, to my understanding, was
20 to recover an anchor. I would not carry a
21 student on that dive.

22 Q So that's your personal --

23 A A student is a student. And you don't
24 take students on work dives. I'm a past training
25 chairman of the CVS and a number of things and

1 we're very strong on that. The fact is that a
2 student is a student and their time in the water
3 should be clearly on learning the course and
4 paying attention to whatever equipment they're
5 learning. So that is my strong opinion. But I
6 would rather not have to continue to press those
7 on the record.

8 Q Do you put any blame on Rob Stewart,
9 asking you to assume for the purpose that he
10 insisted on going? Do you place any blame on --

11 A He has always -- this man was my
12 student. If he goes in the water from now to the
13 day he dies, he will always be my student. And I
14 am always responsible for him.

15 Q Okay. Whether you're there or --

16 A If I'm with him -- I always take calls.
17 And you can ask him if you want. If he calls me
18 at two o'clock in the morning with a dumb
19 question, the only thing dumb about it is if he
20 didn't make that call. And I pretty well breathe
21 that.

22 Q Do you have any understanding of what
23 happened after Mr. Stewart surfaced?

24 A Only what I was told.

25 Q Okay. What were you told?

1 A That there was an incident on the
2 surface, that Peter passed out, and somewhere
3 afterwards Mr. Cahill disappeared.

4 Q Okay. Do you have any --

5 A But I was not there, so I don't know.

6 MS. BIEWEND: You said Mr. Cahill.

7 Q You said Mr. Cahill. I think you meant
8 Mr. Stewart.

9 A I'm bad on names.

10 Q Do you know how long Mr. Stewart was on
11 the surface before --

12 A I was not there.

13 Q Do you have an understanding of whether
14 there's a unanimous opinion or a difference in
15 opinion?

16 A Again, that's going to get into my
17 professional opinion and what I teach. He should
18 have -- there's -- you know, the man should have
19 never gone underwater.

20 Q Okay. But he went underwater. And I
21 don't understand how the amount of time between
22 the time that Mr. Stewart resurfaced and the time
23 that he disappeared has to do with what you
24 teach. Let's leave aside the fact he was in the
25 water in the first place.

1 A Since I don't know how long he was on
2 the surface, okay, and -- and it does have
3 something to do -- because if I teach a boat how
4 to recover people or teach an instructor how to
5 do it, I teach instructors that the instructor is
6 the first in and the last out. Okay. Somebody
7 has to be watching everybody in the water all the
8 time, okay, somebody, period. Since I was not
9 there, then it's all assumptions, okay? If Peter
10 was responsible, it should have been Peter. If
11 Peter was not capable, it should have been
12 somebody else.

13 Q Do you place any responsibility on the
14 boat, the boat being Pisces or Horizon?

15 A Yeah.

16 Q Okay. Do you know whether or not Rob
17 Stewart took his loop out of his mouth after he
18 resurfaced?

19 A No, I don't.

20 Q Would that matter to you, assuming that
21 he had been instructed and told that your loop
22 does not come out of your mouth until after you
23 board the boat?

24 A I have to assume that's how he was
25 instructed.

1 Q So would the fact that he took it out
2 impact your opinion on Mr. --

3 A You're going to get me deposed in this
4 other one yet. So anyway --

5 Q Dixie is burning in that case.
6 Everybody is going to get deposed.

7 A But anyway, there are two people that
8 are responsible for the safety of divers in the
9 water, the instructor and the boat captain. You
10 cannot give that up, period. End of statement.

11 Q Okay. I accept that. Can you -- can
12 you extend that, though, to the diver himself?

13 A The diver -- you can't remove personal
14 responsibility.

15 Q Okay.

16 A You cannot remove personal
17 responsibility. In the case of an inexperienced
18 or student diver, he's relying on somebody to
19 protect him even from himself.

20 Q Do you know anything about Mr. Stewart's
21 experience as a diver?

22 A He's got a lot of experience as a
23 moviemaker.

24 Q And a lot of that was underwater.

25 A And a lot of that was underwater. But

1 his experience as a rebreather diver, to my
2 understanding, was very limited.

3 Q Assuming again that he was instructed
4 that his loop must remain in his mouth --

5 A I'm assuming that he was instructed with
6 that.

7 Q -- and he took it out, do you place any
8 blame on Mr. Stewart?

9 A It depends on whether it fell out, okay,
10 or whether he passed out, okay?

11 Q Okay.

12 A You know, there was two people on the
13 surface. I don't know if Peter kept his in his
14 mouth. I was told that he was pulled under the
15 boat.

16 Q Okay.

17 A He very well could have come up to the
18 surface and passed out and his might have fell
19 out of his mouth. So there's logic there that
20 says it could have fell out.

21 Q I'll ask you to assume that the
22 deposition testimony is that when Peter came off
23 of the boat his loop was in his mouth.

24 A I can believe that because that becomes
25 instinct after a while.

1 Q I'm going to ask you to assume that the
2 deposition testimony from Mr. Cahill, the
3 deposition transcript was referenced in your
4 letter, that Mr. Stewart came up, he spit the
5 loop out, and he gave the all clear two times.

6 A Okay.

7 Q So do you still think the loop fell out
8 of his mouth?

9 A No. If that's in the deposition, that
10 means somebody witnessed it. I'm just saying I
11 didn't.

12 Q So in that case, assuming that I've
13 accurately relayed the testimony, do you place
14 some blame on Mr. Stewart?

15 A I think it's -- yeah, I would say the
16 diver always has some blame.

17 MS. BIEWEND: I think I'm going to go
18 ahead and put it on the record, because it's
19 going to become an issue, that I believe all
20 of these depositions are starting to become
21 backdoor depositions for other litigation.
22 This case is about a dec action about a
23 suspension.

24 So although I do see, you know, making
25 relevant -- arguments as to relevancy, you'll

1 have an argument in front of the judge to a
2 certain degree. But I think it's getting to
3 the point where all of these depositions are
4 going a little bit too far.

5 You're asking these types of opinions.
6 But when he's telling you he's not the person
7 that made the decisions, the QA board did,
8 and he's set forth what those were, and
9 whether Mr. Stewart had any responsibility or
10 the boat had any responsibility for
11 Mr. Stewart's death is not relevant to your
12 case here.

13 So we're planning on petitioning the
14 court for a protective order for this. So I
15 want to go ahead and give you a heads-up and
16 put it on the record that it's getting a
17 little too far.

18 MR. BAYER: In response, you don't have
19 standing to make that argument, that's number
20 one. Number two --

21 MS. BIEWEND: How don't I have standing
22 to make that argument?

23 MR. BAYER: That's argument to be raised
24 should we choose to use these depositions in
25 the other litigation, which you're not a

1 party to, okay?

2 MS. BIEWEND: You're putting them under
3 oath, though. People can subpoena -- our
4 file can subpoena these depositions. And
5 this case should not be used as backdoor
6 depositions. If they want to --

7 MR. BAYER: I waited patiently. I've
8 let you make your objection. I'm making my
9 response.

10 MS. BIEWEND: Okay.

11 MR. BAYER: Number two, to the extent
12 that there were lots of other factors that
13 played into Mr. Stewart's death and my client
14 is being blamed for his death, then I get to
15 explore these options. That is part of what
16 I will raise in my dec action.

17 Because I will tell you if Horizon kept
18 their eye on him and if he had kept his loop
19 in his mouth, we probably wouldn't be here.
20 So it is all very relevant. And we'll let
21 the judge make that determination.

22 MS. BIEWEND: I told you that's what
23 we're going to do, have the judge make the
24 determination.

25 MR. BAYER: Fair enough.

1 I'm going to take a two-minute break.

2 (Recess from 2:13 p.m. to 2:20 p.m.)

3 BY MR. BAYER:

4 Q I've got a couple more questions. I'll
5 get you out of here in the next five minutes, I
6 hope.

7 A Okay.

8 Q I want to go back to the certification
9 issue.

10 A Yeah.

11 Q The application that was sent in by Add
12 Helium, do you know whether or not Peter signed
13 off on that as the instructor?

14 A Since I was not there, I can't answer
15 that question.

16 Q Okay. If the instructor, Peter, didn't
17 sign those papers, which I submit goes into our
18 statement they were erroneously submitted -- let
19 me finish my question. If it was submitted
20 without the instructor's signature, is it a valid
21 submission?

22 A Yes.

23 Q Okay. Even though the -- what if the
24 instructor calls up and says, My guy made a
25 mistake, hypothetical, I didn't sign off on it

1 and these guys aren't ready; I did not certify
2 them; I'm their instructor, the instructor for
3 life, as you said?

4 A Then he made a real bad error in
5 allowing his -- because what sends it in -- there
6 are two things. And yes, it's -- okay. Right
7 now I probably can go to my computer and if I did
8 a certification with him, I can pull up the
9 paperwork with his PIN number on it, which is his
10 electronic signature, and submit that
11 certification. And it will work and he will get
12 his card and he will say thank you.

13 So he has given me somewhat control,
14 with his knowledge, of his PIN number. He did
15 apparently -- somebody -- if he did that, he
16 would have that PIN number. So it's kind of
17 letting them have your little signature stamp.
18 It's still your signature stamp.

19 Q So you're saying that because it was
20 submitted that it's presumed to be valid?

21 A It's presumed to be valid if it has his
22 PIN and it's coming from its normal place it
23 would normally come from. That's all they have
24 to operate from.

25 Q Well, then, let me ask you the question

1 from the other side of the fence.

2 A Okay.

3 Q You now know that there are --
4 unfortunately, one person has passed and there's
5 another gentleman out there, Brock Cahill, who
6 should not be certified but is. What, if
7 anything, has IANTD done to act for the safety of
8 one of its -- one of its certified divers?

9 A It's a real -- it's a -- I'm going to
10 give you my best answer I can. And I don't like
11 my own answer. Okay. And I won't put names to
12 this. But I will kind of play like Christ and
13 I'm going to give you a little thing.

14 I have certain divers that after my
15 certification they become absolutely unsafe. And
16 I would love to come take it back. But there are
17 no provisions in any agency, whether it be IANTD,
18 PADI, PTI, podunk, whatever, to withdraw a
19 certification from a diver. Do I agree with
20 that? No. But there ain't nothing I can do
21 because that right now is what the industry has
22 been doing.

23 That's the -- you know, so once it's
24 issued, I -- you know, I really -- you know, now,
25 in this guy's case, he's probably still scared

1 and screwed up. He might not ever dive again. I

2 don't know. I hope not.

3 Q But he could.

4 A But he could. And that's an answer for
5 the industry.

6 Q Okay. An industry that IANTD is part
7 of?

8 A That's a good question for the industry.

9 Q Okay. And has it ever come up at IANTD
10 that maybe we should be an industry pioneer and
11 take back certifications where we know people are
12 cowboys or are not acting within our training
13 framework?

14 A Well, it has been back and forth over
15 the years of issuing temporary certifications.
16 In other words, certifications that expire, like
17 your driver's license. And everybody has had to
18 back off from them because everybody won't do it.

19 When I was training chairman of the cave
20 diving section, we issued a card temporary for 18
21 months. To renew it, you had to go back to an
22 instructor. We were the only ones doing it, so
23 they would go to agency B and get that
24 certification because we were doing the ones that
25 had to go back and get recertified. So then you

1 go broke.

2 So it becomes things like that that the
3 industry has to do as a whole to get it done.
4 I've tried it once. And they got behind me after
5 I got out of the administration and changed it
6 back because they were losing money because
7 nobody else wanted to do that. It was a great
8 idea, but nobody was willing to do it.

9 Q So then is it your opinion that this is
10 all about the bottom line?

11 A I'm afraid sometimes -- it's not all
12 about the bottom line, but it's just -- we all
13 follow the same sets of rules.

14 Q Okay. I don't care about PADI or
15 anybody else. Right now is --

16 A Right now we don't have a way to remove
17 a student certification. There's no way in
18 anybody's standards.

19 Q Why not write it in?

20 A It's a good question. We might, you
21 know.

22 Q But to date, you haven't?

23 A To date there's nothing wrote in.

24 Q Okay. Even though your mission is to
25 train people and certify them and put them out

1 there safely?

2 A Yeah. And we're following the same
3 standard everybody else has and we issue a
4 lifetime card.

5 Q So as my mother wisely said, if
6 everybody else jumps off the cliff, are you going
7 to go with them?

8 A Like most businesses, I hate to say,
9 yeah, probably. It's not a good answer, but it's
10 an accurate answer. In a perfect world, no. But
11 it's not a perfect world for which we live.

12 MR. BAYER: I have nothing else.

13 THE WITNESS: Okay.

14 MR. BAYER: You have the right -- do you
15 want to explain this to him or --

16 THE WITNESS: I have a right to read the
17 deposition and I have a right to make any
18 changes or whatever. And I trust you will do
19 it.

20 MS. BIEWEND: I don't have any
21 questions.

22 And we will read and you can run it
23 through us.

24 MR. BAYER: I'll order it. I like an
25 electronic and mini and word index.

1 THE REPORTER: Would you like a copy?

2 MS. BIEWEND: Yes, please.

3 (Witness excused.)

4 (Deposition concluded at 2:30 p.m.)

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CERTIFICATION OF OATH

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STATE OF FLORIDA)

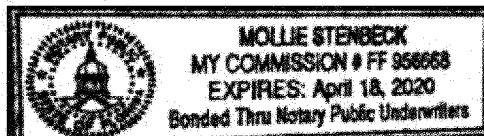
COUNTY OF COLUMBIA)

I, the undersigned authority, certify
that JOHN P. JONES personally appeared before me
on September 20, 2018, and was duly sworn.

WITNESS my hand and official seal this
5th day of October 2018.

Mollie Stenbeck

Mollie Stenbeck
Notary Public - State of Florida
My Commission No. FF956668
Expires: April 18, 2020



REPORTER'S CERTIFICATE

STATE OF FLORIDA)
COUNTY OF COLUMBIA)

I, Mollie Stenbeck, Court Reporter and
Notary Public in and for the State of Florida at
Large, hereby certify that I was authorized to
and did stenographically report the deposition of
JOHN P. JONES; that a review of the transcript
was requested; and that the transcript, pages 1
through 91, is a true record of my stenographic
notes.

I further certify that I am not a
relative, employee, attorney, or counsel of any
of the parties, nor am I a relative or employee
of any of the parties' attorney or counsel
connected with the action, nor am I financially
interested in the action.

DATED this 5th day of October 2018.



Mollie Stenbeck

(904) 355-4077

IN THE CIRCUIT COURT OF THE THIRD JUDICIAL
CIRCUIT, IN AND FOR COLUMBIA COUNTY, FLORIDA

CASE NO.: CACE-18-000105-CA

ADD HELIUM, LLC, a Delaware Limited
Liability Corporation, and PETER
SOTIS, individually,

Plaintiffs,

vs.

INTERNATIONAL ASSOCIATION OF NITROX
DIVERS, INC., a Florida Corporation,

Defendant.

STATE OF FLORIDA)
COUNTY OF COLUMBIA)

IN RE: DEPOSITION OF JOHN P. JONES
TAKEN: September 20, 2018
DATE SENT TO WITNESS: October 5, 2018
TO: Jennifer Biewend, Esquire
Jcb@rkkattorneys.com

The referenced transcript has been completed
and awaits reading and signing.

The original of this deposition has been
forwarded to the ordering party and your errata,
once received, will be forwarded to all ordering
parties listed below.

Please call (386) 754-2482 to schedule an
appointment to come to our Lake City office to
read your deposition transcript and sign the
errata sheet.

Please note, reading and signing is waived
after 30 days from the time of notification.

Thank you.

(904) 355-4077

1 E R R A T A S H E E T

2 I, JOHN P. JONES, the undersigned deponent,
3 have this date read the foregoing pages of my
4 deposition, numbered 1 through 91, and with the
5 suggestions noted below, if any, these constitute
6 a true and accurate transcription of my
7 deposition given on the 20th day of September
8 2018, at the time and place stated herein.

9

10 PAGE NUMBER LINE NUMBER SUGGESTION/REASON

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JOHN P. JONES

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