

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 LUIS AUGUSTO PEDRO
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 Luis Augusto
Pedro taken on August 22, 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 &
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DOCUMENT

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and PETER SOTIS, individually,

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CERTIFIED
ORIGINAL

DEPOSITION OF
LUIS AUGUSTO PEDRO

DATE: August 22, 2018
TIME: 1:30 p.m. - 3:50 p.m.
PLACE: Third Circuit Reporters & Video
136 SW Nassau Street
Lake City, Florida 32025

Examination of the witness taken before:

Jami Stanley, FPR, Court Reporter

Notary Public, State of Florida at Large

Third Circuit Reporters & Video
136 SW Nassau Street
Lake City, Florida 32025

A P P E A R A N C E S

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REPORTER'S KEY TO PUNCTUATION:

--	References an interruption.
(...)	References a trail-off by the speaker.
"Uh-huh"	References an affirmative sound.
"Huh-uh"	References a negative sound.
(Sic)	References a misstatement.

1 Thereupon,

2 LUIS AUGUSTO PEDRO,

3 having been produced and first duly sworn as a
4 witness, then testified as follows:

5 THE WITNESS: Yes.

6 DIRECT EXAMINATION

7 BY MR. BAYER:

8 Q Could you state your name, for the
9 record, please?

10 A Luis Augusto De Oliveira Alessio Pedro,
11 all that.

12 Q Okay. Will Mr. Pedro suffice for
13 purposes of being res- -- of not being
14 disrespectful; is it Mr. Pedro?

15 A Yeah, that's fine.

16 Q That's fine. Mr. Pedro, have you ever
17 had your deposition taken before?

18 A No.

19 Q Okay. Let me tell you -- I'm sure your
20 attorneys have explained it, but you know, let me
21 tell you a couple of ground rules that I always try
22 to do. Number one, for -- to make things easy for
23 the court reporter, if you could let me finish my
24 questions, before you answer, that's a big help to
25 her, because otherwise, when we both start talking

1 over each other, it creates a problem. Number two,
2 if you could please give me verbal responses,
3 because sometimes, if you don't, we will get back a
4 transcript that says, witness shook head, and we
5 don't know which direction your head was shaking, so
6 we don't know whether it's a yes or a no.

7 If you ever need a break, you can let me
8 know. If I -- a question I ask you is unclear, you
9 know, please tell me you don't understand it, ask me
10 to rephrase it in a different way; I'm not trying to
11 trick you in any way. And if you give me an answer,
12 I'm going to assume that you understood the
13 question.

14 Finally, I am not here to ask you
15 anything that you told your attorneys, or anything
16 that your attorneys told you; that is outside of
17 what I can ask you. So I want to know what your
18 personal knowledge is, not the -- not what, you
19 know, direct discussions you had with your counsel
20 who are present today; so are we good with that?

21 A Yes.

22 Q Okay. Can I ask you your home address,
23 please?

24 A 147 Northwest Zack Drive, Lake City,
25 Florida 32055.

1 Q And do you have a professional address,
2 as well?

3 A 119 Northwest Ethan Place, Suite 101,
4 Lake City, Florida 32025.

5 Q Can I ask you what your educational
6 background is?

7 A High school.

8 Q Okay. And where did you attend high
9 school?

10 A Brazil.

11 Q Okay. What year did you graduate from
12 high school?

13 A Hold on, because it is different, sorry.
14 So --

15 Q Okay.

16 A -- so elementary --

17 Q Approximately.

18 A -- college -- because it's a little bit
19 different, like I said, it's Brazil -- so I didn't
20 go to any university --

21 Q Okay.

22 A -- or technical college.

23 Q Okay. And so --

24 A It was just regular, you know, study.

25 Q That's fine. Did you -- when did you

1 come to the United States?

2 A To live here, 2015.

3 Q Okay. Between the time you graduated
4 from high school and the time you came to the United
5 States, what did you do for a living in Brazil?

6 A Diving.

7 Q Okay. Were you strictly involved in the
8 dive industry in some capacity from the time you got
9 out of -- what I'll call the equivalent of high
10 school, until you came to the United States?

11 A Yes. Since high school, I worked for
12 the -- with diving.

13 Q Okay. Can you tell me what types of work
14 you did with diving?

15 A Sales, management, instruction.

16 Q Were you employed by one entity or
17 various entities, while you were there?

18 A Two.

19 Q Okay. What were the names of those
20 companies?

21 A Aqua Dive and Diving College.

22 Q Okay. Where is Aqua Dive located?

23 A Sao Paulo.

24 Q And what about Dive College?

25 A Diving, Diving College.

1 Q Diving College, excuse me.

2 A Sao Paulo.

3 Q Sao Paulo, also. Are those both dive
4 shops?

5 A Yes.

6 Q Okay. What professional certifications
7 do you hold, diving-wise?

8 A At this moment, INTD, ITT.

9 Q Okay. So just the INTD and ITT?

10 A Correct.

11 Q Okay. Any others?

12 A I'm not current with them.

13 Q Okay.

14 A I hold, but not current with them.

15 Q What current certifications have you held
16 in the past that have lapsed?

17 A Open Water Scuba Instructor with PADI,
18 Open Water Scuba Instructor with PDIC. Cave
19 Instructor with NSS-CDS, and actually, I'm current
20 with NSS-CDS. I forgot that.

21 Q Okay. When did your PADI certification
22 lapse?

23 A I don't remember.

24 Q Okay. More than five years ago?

25 A Yes.

1 Q Okay. The second certification?

2 A PDIC.

3 Q PDIC. When did that one lapse; do you
4 recall?

5 A I don't remember, either.

6 Q Okay. So right now, the three
7 certifications that -- that you hold are, INTD,
8 ITC --

9 A ITT --

10 Q ITT. And the cave certification?

11 A Correct.

12 Q Okay. Where did you get the cave
13 certification?

14 A U.S.A.

15 Q When did you get that?

16 A '94.

17 Q Who are you certified by?

18 A (No audible response.)

19 Q What -- what agency gives you that
20 accreditation?

21 A I became an instructor for Interscape
22 (phonetic) in 1994 for NSS-CDS.

23 Q I'm sorry, NSS...

24 A CDS.

25 Q CDS.

1 A National Speleological Society, Cave
2 Diving Section.

3 Q Okay. Did you ever actively teach cave
4 diving?

5 A Yes.

6 Q Okay. When did you do that, and for who?

7 A I did that since '94 --

8 Q Uh-huh.

9 A -- for Diving College and Aqua Dive.

10 Q Okay. In your -- approximately, how many
11 years did you work in Sao Paulo, in the two
12 facilities that you referenced?

13 A 1990.

14 Q Okay. So from 1990 until you arrived
15 here in 2015 --

16 A 1990 --

17 Q -- roughly?

18 A I'm sorry?

19 Q I'm just trying to ascertain how long you
20 were working in Brazil for, in the dive industry
21 since --

22 A Since -- from 1990 to 2015.

23 Q Okay. And then the -- I think, you
24 indicated that you were involved -- one of the
25 things you said you did were sales; what type of

1 sales were you involved in?

2 A Sales --

3 Q Okay.

4 A -- diving sales. I worked there as a
5 salesman on the diving side.

6 Q Was that equipment sales or selling dive
7 instruction packages or both?

8 A Both.

9 Q Okay. In the sales that you -- which one
10 of those two entities was first, the Dive College
11 or --

12 A Aqua Dive.

13 Q Aqua Dive was the first one --

14 A Correct.

15 Q -- and then Diving College, and then you
16 came here?

17 A Correct.

18 Q Were -- did either of those facilities do
19 any type of closed-circuit dive instruction?

20 A No.

21 Q Okay. Did you do any closed-circuit
22 diving in the -- in that 15-year period when you
23 were employed by those two facilities?

24 A Yes.

25 Q Okay. So was that recreational, or was

1 that attendant with your employment with either of
2 the dive shops?

3 A Recreational.

4 Q How often in that 15-year period would
5 you engage in closed-circuit diving?

6 A Since 2008.

7 Q Okay. So that -- so you -- that was
8 something that -- that wasn't continuous in the
9 15-year period then; you got your first
10 certification in 2008?

11 A Correct.

12 Q Okay. And that was -- am I correct that
13 that was something you did recreationally and not
14 something that you taught for --

15 A No.

16 Q -- Diving College or the other facility?

17 A I taught for myself --

18 Q Okay.

19 A -- not for the facilities.

20 Q Oh, so did you teach privately?

21 A Yes.

22 Q Okay. How many certifications did you,
23 yourself, issue in that seven-year period before you
24 came to the United States?

25 A I don't -- I don't have that record.

1 Q Okay. Was that something the Diving
2 College permitted you to do outside of your
3 employment there, or was that something you did
4 attendant with -- with Diving College's facility?

5 A When -- I was not an employee for Diving
6 College or Aqua Dive. I became an IANTD licensee
7 for Brazil in 2006; missed that.

8 Q So if you were not employed by either
9 facility, what was the nature of your employment or
10 your affiliation with that?

11 A I was the IANTD licensee in Brazil.

12 Q Okay, but it's a -- there was a 15-year
13 period between 1990 and 2006, when you were
14 employed, before you had your --

15 A Aqua Dive and Diving College.

16 Q Okay. So did -- when you got your IANTD
17 license in 2006, did you separate from your
18 employment with Diving College, or did you continue
19 to work for them at the same time?

20 A No, I separated.

21 Q Okay. So then in the time you were in
22 Brazil, just so I -- I understand your chronology --
23 you have the first entity, you have Diving College,
24 2006 --

25 A No, first entity, Aqua Dive.

1 Q Aqua Dive. Okay.

2 A Okay.

3 Q Then from Aqua Dive, you went to --

4 A To Diving College.

5 Q Diving College. Okay.

6 A Back to Aqua Dive.

7 Q Oh, you went back to Aqua Dive?

8 A Yeah.

9 Q Okay. And then in 2006, you got your
10 IANTD license --

11 A Licensee for Brazil.

12 Q Okay. What is being an IANTD licensee
13 entail?

14 A What do you mean?

15 Q What -- there are -- I guess, I'll use my
16 very basic knowledge; dive-wise, I'm not as smart as
17 other guys in the room here, but I understand
18 there's an IANTD certification. I get my
19 certification from IANTD to become a closed-circuit
20 diver; you use the word, "licensee," so what is an
21 IANTD licensee?

22 A It is an office that runs the territory.

23 Q Okay. What were the prerequisites, or
24 the things you had to have in place to become the
25 IANTD licensee for Brazil?

1 A Be an IANTD instructor/trainer and comply
2 and abide with the IANTD standards.

3 Q When did you receive your IANTD training?

4 A 2000.

5 Q Okay. And where did you receive it?

6 A Brazil.

7 Q Do you remember the ent- -- the teaching
8 entity?

9 A I did it with Alfonso Pinheiro.

10 Q I'm sorry. Could you --

11 A Alfonso.

12 Q Alfonso...

13 A Pinheiro.

14 Q Pinheiro, -e-i-r-o?

15 A P-i-n-h-e-i-r-o, Pinheiro.

16 Q And was Mr. Pinheiro a dive instructor;
17 did he have his own dive facility? Tell me about
18 him.

19 A He was the previous IANTD licensee for
20 Brazil.

21 Q Okay. At the time, do you rec- -- do you
22 have any recollection of the certification process
23 that you underwent with IANTD?

24 A Can you repeat, so I can --

25 Q Do you remember what you had to do to get

1 certified as an IANTD diver?

2 A Participate in a program.

3 Q Okay. Do you recall what that program
4 was at the time, what you had to do?

5 A It was in 2000.

6 Q So you don't really have any recollection
7 of the classroom hours; am I correct that you
8 wouldn't have a recollection of how many classroom
9 hours, how many dives, or what the sequence of
10 events was that lead to your certification?

11 A No.

12 Q Has your certification remained current
13 since you obtained it in 2006?

14 A Yes.

15 Q How is it that you chose to leave Brazil
16 and come to the U.S.?

17 A An opportunity to join H.Q.

18 Q To join -- I'm sorry -- HU?

19 A H.Q., Headquarters, the IANTD
20 Headquarters.

21 Q Oh, H.Q. Okay. How did that happen?
22 Tell me about the discussions you had, and who you
23 had them with.

24 A I was invited to see, to come and join
25 and become a partner.

1 Q Okay. And did that take place in 2015,
2 or were those discussions that had been ongoing for
3 some period of time before that?

4 A 2000- -- second half of 2014.

5 Q So the second half of 2014; did you make
6 the inquiry to IANTD, or did they make the inquiry
7 to you as to whether or not you would be interested
8 in coming to work for Headquarters?

9 A Both.

10 Q Okay. Who were your initial discussions
11 with?

12 A John Jones.

13 Q And is Mr. Johns still affiliated with
14 IANTD?

15 A He's the director of quality assurance.

16 Q I'm curious how it is that they came to
17 offer you a position with Headquarters; do you have
18 any recollection of that?

19 A It was because of the kind of work that I
20 was performing in Brazil.

21 Q Okay. And what type of work were you
22 performing there?

23 A Just teaching and developing in the IANTD
24 market.

25 Q Let's go to 2013; how many IANTD

1 certifications did you issue in Brazil as the
2 licensee? Give me an approximate number.

3 A I can't. I can't tell you without
4 looking.

5 Q Okay. Do you think it was more than 100
6 divers a year?

7 A Yes.

8 Q More than 500?

9 A Probably, but I'd have to look.

10 Q Was the license that you had for your
11 credentials in Brazil, did you sell that to somebody
12 else; did you surrender it, or tell me how that came
13 to end?

14 A It didn't end. I am still the licensee
15 for Brazil.

16 Q Okay. Who is operating, physically, as
17 the licensee in Brazil today?

18 A My manager.

19 Q Okay. So it's still your franchise? I
20 know it's not a franchise, but I'll just use that
21 word very loosely. I'm not using it in a legal
22 sense. So you still, as we sit here today, you are
23 still the IANTD licensee in Brazil, and you have a
24 manager who's the man on the ground; would that be a
25 correct statement?

1 A Yes.

2 Q Okay. And do you derive revenue from
3 that operation?

4 A What do you mean, do I derive it?

5 Q I mean, do you make money as -- as the
6 license holder?

7 A Yes.

8 Q Approximately, how much did you make from
9 your IANTD Brazil license last year?

10 A I'd have to check.

11 Q Can you give me a ballpark?

12 A No.

13 Q So as you sit here today, you have no
14 idea how much you made from it last year?

15 A No.

16 Q How much do you -- have you made from
17 them in the, let's say, first six months of this
18 year?

19 A I'd have to ask my accountant.

20 Q Okay. So your accountant knows what you
21 earn, but you don't know; am I correct about that?

22 A Correct. He's my manager.

23 Q Okay. When you arrived at Headquarters
24 in 2015 -- well, actually, let me back up a little
25 bit. I think you indicated to me that you were

1 initially contacted by John Jones?

2 A Correct.

3 Q Okay. And do you recall what position
4 you were offered initially, or what you were -- what
5 the invitation was; let me put it that way?

6 A That once we talked about it, and if I
7 was still interested.

8 Q Well, tell me what you talked about,
9 other than joining Headquarters. I just have
10 this --

11 A If the opportunity appears, would you be
12 willing to come --

13 Q Okay.

14 A -- and I said, Yes, and that was it.

15 Q Okay. And for what position was that
16 opportunity?

17 A To come as a COO for the company.

18 Q Okay. And what did you understand your
19 responsibilities would be as the COO of the company?

20 A To help the operation, day by day.

21 Q So when you were -- when you arrived here
22 in 2015, were you hired in the position of COO?

23 A Correct.

24 Q Okay. Is there any written description
25 of your job responsibilities as COO that are

1 maintained by the company?

2 A No.

3 Q Okay. Then can you tell me what your
4 responsibilities are, day-to-day as the --

5 A Actually -- I'm sorry -- there's a
6 flowchart.

7 Q Okay. And does the flowchart just
8 identify the people in Headquarters, or does it also
9 list the various responsibilities that they would
10 have?

11 A It -- it's not a written
12 (demonstrating) -- you know, it kind of tells me the
13 area -- areas that I was responsible for.

14 Q Okay. And what areas are you responsible
15 for?

16 A Communicate with the licensees around the
17 world, helping with the development of the editing
18 and materials --

19 Q Okay.

20 A -- printing website. And I -- then I can
21 look at the flowchart.

22 Q Okay. Are you involved in accident
23 investigations in any way?

24 A No.

25 Q Okay. Who in the company is involved in

1 accident investigations, or responsible for that?

2 A It's the quality assurance.

3 Q And who falls under the quality assurance
4 umbrella at IANTD?

5 A There's also the training director.

6 Q So in terms of accident investigations,
7 we have a quality assurance person and a training
8 director, correct?

9 A Correct. That's right, correct.

10 Q Anybody else?

11 A No.

12 Q Does IANTD employ any investigators that
13 work on their behalf?

14 A We establish a Q.A. Board.

15 Q Okay. Who is on the -- who is presently
16 on the Q.A. Board?

17 A The Q.A. Board is not a -- fixed names.

18 Q Okay. How does the Q.A. Board operate;
19 is it something that is empaneled when there is an
20 incident, or is there, at any given time, a roster
21 of people on the Q.A. Board?

22 A Can you just rephrase the emp- --

23 Q Is there a -- by panel, is there, I mean,
24 are there six people who sit on the Q.A. Board at
25 any given time?

1 A No.

2 Q Okay. So in what situations does -- is
3 the -- is a Q.A. Board assembled; let me put it to
4 you that way?

5 A How it's assembled?

6 Q Well, when would you call a Q.A. Board
7 in --

8 A When an incident or accident happens --

9 Q Okay.

10 A -- or something related to a Q.A. --

11 Q Who makes the decision to call for the
12 Q.A. Board to meet or a Q.A. Board to meet?

13 A Usually, the training director.

14 Q Okay. Who's the training director today?

15 A Today's Joseph Dituri.

16 Q Okay. And back in 2017, was Mr. Dituri
17 also the training director?

18 A No.

19 Q Okay. Who was the training director in
20 2017?

21 A Mark Fowler.

22 Q Okay. And in 2016, who was the training
23 director?

24 A Mark Fowler.

25 Q Okay. Do you know how long Mr. Fowler

1 held that position as training director?

2 A I would say in the ballpark of around two
3 years.

4 Q Okay. And can you tell me when Mr.
5 Dituri assumed that position?

6 A I would say around four months ago.

7 Q Okay. So let me put this to you just in
8 terms --

9 A But it's around that, I don't remember
10 the exact date.

11 Q Okay. So -- but approximately four or
12 five --

13 A Yeah.

14 Q -- months, somewhere there about? I'm
15 not holding you to a specific date. So let me give
16 you -- hypothetically there's an incident. The
17 training director, either -- whether -- presently,
18 let's say, it is Mr. Dituri; is he the sole person
19 that determines whether a Q.A. Board is convened?

20 A No.

21 Q Okay. Who else participates in the
22 decision to convene a Q.A. Board?

23 A He -- he communicates to the B.O.D. that,
24 in his opinion, we should have a Q.A. Board.

25 Q I'm sorry, communicates to...

1 A The B.O.D.

2 Q Okay. The Board of Directors?

3 A Correct.

4 Q Okay. Who's presently on the Board of
5 Directors?

6 A Myself and Tom Mount.

7 Q Okay. And back in 2000- -- let's say,
8 January 1, 2017, were you and Mr. Mount also the
9 Board of Directors?

10 A Yes.

11 Q Okay. Is there -- it's just the two of
12 you?

13 A Yes.

14 Q Okay. So returning to where I started,
15 if the training director calls or believes that a
16 Q.A. Board should be convened, the next step would
17 be for him to explain to the Board, you and Mr.
18 Mount, that he thinks that this should be done; is
19 that correct?

20 A Yeah, that's it.

21 Q And then you, as the Board of Directors,
22 say, okay, we agree, or we disagree, whatever the
23 case may be?

24 A Yes.

25 Q Okay. And if you approve the appointing

1 of the Q.A. Board, how -- who joins that Q.A. Board?

2 A (No audible response.)

3 Q How do you decide who's going to be on
4 it?

5 A Based on the expertise of each of our
6 members, and usually, we try to pick a Q.A. Board
7 that doesn't know the person involved on the Q.A. --
8 on -- on the Q.A.

9 Q So is the Q.A. Board assembled from the
10 general IANTD membership?

11 A Yes.

12 Q Okay. And then you look to pick people
13 who have no connection to the accident in question?

14 A Most of the time. Sometimes, it's not
15 possible.

16 Q Okay. Or do you look for people who
17 don't, as a rule, have any kind of a relationship
18 with the person who's being investigated, or who is
19 at the core of this Q.A. evaluation?

20 A Can you repeat?

21 Q So in other words, is it a qualification
22 that whoever is picked to be on the Q.A. Board
23 doesn't, let's say, have a personal friendship or a
24 long-standing relationship with the person being
25 investigated?

1 A That's what we try to do.

2 Q Okay. What do you do to ensure that the
3 people who are on the Q.A. Board have no connection
4 with the people being investigated, or the person
5 being investigated?

6 A Based on your knowledge.

7 Q Okay. Do you have any question -- do you
8 ask them, you know, for example, do you know Mr.
9 ABC?

10 A No.

11 Q Okay. So it's just based on your
12 knowledge of whether or not they know a person?

13 A Correct.

14 Q Okay. So is it the Board that makes the
15 decision on -- the Board of Directors who makes the
16 decision who's on the Q.A. Board, or is it the
17 training director, or is it you; who picks the
18 people of the Q.A. Board?

19 A We usually discuss it among us.

20 Q Okay. When you say, "we discuss it among
21 us," --

22 A With me, Tom and the training director.

23 Q Okay. So when -- let's say for the
24 purposes of 2017 going forward, there was a decision
25 to empanel a Q.A. Board, it would be a decision that

1 was formulated by you, Mr. Mount and Mr. Dituri; is
2 that correct?

3 A For when?

4 Q For 2017, or when -- let's -- whenever --
5 I'm sorry -- yeah, when Mr. Dituri came into it,
6 let's say in 2017, January of 2017.

7 A '17 was not Joe Dituri. It was still
8 Mark Fowler.

9 Q It was still Mark Fowler. So if
10 something happened in 2017 -- I'm sorry -- I stand
11 corrected on the dates. You told me he was only in
12 the past four months.

13 A Yeah.

14 Q I've got it. I'm human.

15 A No, no, no.

16 Q Memory's not as good as it used to be.
17 So back then, it would have been a decision made by
18 you, Mr. Mount and Mr. Fowler, together?

19 A At that time, also, we had training.
20 John was planning as a training consultant, so --

21 Q That's John --

22 A He also -- John Jones, yes. So it was
23 the four of us.

24 Q When a Q.A. Board is convened, what
25 information are they given, or -- well, strike

1 that -- when a Q.A. Board is convened, are they
2 given a specific instruction?

3 A We send them all that we have available.

4 Q When you say, all that you have
5 available, what -- what -- and I understand there's
6 not a checklist, but what might be included in that?

7 A An incident report --

8 Q What other --

9 A -- and --

10 Q -- types of documents would be --

11 A -- previous conversations or e-mails.

12 Q Anything else?

13 A Not that I recall.

14 Q Does -- do the Q.A. Board members -- how
15 many people will be on a Q.A. Board?

16 A Three.

17 Q Three. Do the people on the Q.A. Board
18 discuss their findings collectively, or do they each
19 submit their findings, and with those, in turn
20 reviewed by the Board, or you know, as you told me,
21 Mr. Jones, you know, the Board and Mr. Fowler?

22 A It's -- it's a discussion. It's --
23 everybody's involved on the e-mail.

24 Q Okay. Do they meet personally to discuss
25 it, or is it only by e-mail?

1 A Only by e-mail.

2 Q Do they have conference calls where they
3 all dial in and discuss it?

4 A It depends on the Q.A. Board, if they
5 decide.

6 Q Okay. In your experiences, are
7 conference calls, where all of the Q.A. members are
8 on the phone at the same time, more or less common?

9 A No, it's not.

10 Q So it's just generally a communication
11 between these three people, via e-mail?

12 A Correct.

13 Q And are all of the e-mails that are
14 exchanged by the Q & A Board maintained in the
15 records of IANTD?

16 A Correct.

17 Q Are -- is there ever any input from any
18 outside persons, other than the people on the Board,
19 the training director, you know, or other members of
20 the Q.A. Board?

21 A Only legal advice.

22 Q Okay. Does IANTD have a regular general
23 counsel, or do you have different lawyers that you
24 go to for different situations?

25 A Yeah, we -- we go in different

1 situations.

2 Q Okay. Has IANTD ever employed Donna
3 Albert to represent them --

4 A I can only --

5 Q -- in any capacity?

6 A I can only answer from 2015 to today.

7 Q Okay. I got you.

8 A Since I'm back, since I'm here, no.

9 Q Has IANTD ever hired Craig Jenni to offer
10 or to provide them legal advice since you have
11 joined in 2015?

12 A Hired, no.

13 Q Okay. No, I asked, have you ever
14 obtained legal advice from Mr. Jenni?

15 A Yes.

16 Q Did you obtain legal advice from Mr.
17 Jenni in conjunction with the incident that lead to
18 Mr. Sotis' suspension?

19 A Yes.

20 Q Okay. So was -- it would be fair to say
21 that whether hire- -- whether formerly hired or not,
22 Mr. Jenni was acting in some fashion as counsel for
23 IANTD with respect to the suspension of Mr. Sotis?

24 A No.

25 Q Okay. He -- but he did provide you some

1 type of legal advice?

2 A Just general questions --

3 Q Okay.

4 A -- that we had.

5 Q Did you contact him, or did he contact
6 you?

7 A We contacted him.

8 Q When you say, "we," who contacted him?

9 A Me and Tom.

10 Q Okay. Can you tell me when, in relation
11 to Rob Stewart's death, you contacted Mr. Jenni?

12 A I don't remember, from the top of my
13 head.

14 Q Okay. Did you ever retain Mr. Jenni to
15 act as your investigator in the Rob Stewart death?

16 A No.

17 Q Do you have any knowledge of the fact
18 that Mr. Jenni represented himself to be your
19 investigator --

20 A No.

21 Q -- in the -- well, let me finish --

22 A Oh, I'm sorry.

23 Q -- yeah --

24 A I thought you were finished.

25 Q -- in the death of Rob Stewart?

1 A No.

2 Q Okay. Do you have any knowledge as to
3 whether or not he was representing himself to be
4 your investigator in the Rob Stewart death?

5 A No.

6 Q Has Craig Jenni ever acted as an
7 investigator for IANTD?

8 A Since 2015 that I'm here, no.

9 Q How is it that Mr. Jenni is a contact
10 person on your incident form?

11 A Because of the -- Witherspoon, that is
12 one of the twenty agencies that we use --

13 Q Okay.

14 A -- the insurance that we use.

15 THE REPORTER: I'm sorry. Can I ask what
16 that was?

17 MR. BAYER: Witherspoon.

18 THE WITNESS: Witherspoon.

19 MR. BAYER: W-i-t-h-e-r-s-p-o-o-n.

20 THE WITNESS: Yeah, don't ask me to
21 spell; I don't -- I always have a hard time.

22 BY MR. BAYER:

23 Q At the time you sought legal advice from
24 Mr. Jenni, did you know that he was also
25 representing Horizon Divers in the Stewart death?

1 A Yes.

2 Q Okay. In your mind, did that in any way
3 create a conflict concern?

4 A No.

5 Q Okay. When you do an accident or
6 incident investigation, can we agree that you try to
7 remain fair and impartial?

8 A Yes.

9 Q So how can you maintain impartiality when
10 your -- the person you're seeking legal advice from
11 is one of the key investigators from somebody who's
12 actively involved in the accident?

13 A How do I think that impartiality can be
14 kept --

15 Q Yes.

16 A -- is that correct?

17 Q Yeah. How do you -- do you -- how do you
18 think Mr. Jenni can be impartial when he's
19 representing one of the two parties that are the
20 center of the liability allegations from Mr. -- for
21 Mr. Stewart's death?

22 A Because our needs was not anything --
23 let's put it this way -- in deep -- or in detail,
24 and we didn't need any information from Dan Dawson
25 (phonetic) or anybody. It was just a general --

1 general questions, not -- just like send him -- this
2 is our proposal, that's it.

3 Q It didn't concern you at all that he was
4 representing Horizon at the time?

5 A No.

6 MR. BAYER: Do you -- I wasn't sure --

7 MR. ROBINSON: I was just waiting to --
8 if you got into the attorney/client
9 communication. I wasn't --

10 MR. BAYER: I'm being very careful not
11 to.

12 MR. ROBINSON: I know. I'm watching.

13 MR. BAYER: I'm dancing around the center
14 of the circle the best that I can.

15 BY MR. BAYER:

16 Q Getting back to your job functions, one
17 of the things you told me is, one of -- is that it's
18 your responsibility to communicate with the
19 licensees globally; what does that entail?

20 A All of the licensees report to us, their
21 trainings.

22 Q Okay. How many licensees worldwide,
23 approximately, does IANTD have?

24 A 22.

25 Q Do they all pay the same fee to IANTD, or

1 is IANTD's revenue from licensees dependent on the
2 number of divers that they certify?

3 A I think that's more business, personal
4 information.

5 Q So are you refusing to answer that
6 question?

7 A I don't think it's --

8 MR. ROBINSON: Let me register an
9 objection to it anyway, in the event, that I
10 don't think that's calculated to lead to any
11 admissible evidence in this case pursuant to
12 Rule 1.280.

13 If you know tell him, but we will ask the
14 Court not to allow it in.

15 MR. BAYER: Okay. And I would say
16 that --

17 THE WITNESS: I -- okay. Go ahead. I'm
18 sorry.

19 MR. BAYER: Let me just respond to that,
20 just so that there's a record, that if some
21 licensees are greater revenue generators than
22 others, I would need some type of assurance
23 that all licensees are created equal,
24 regardless of the amount of income they
25 generate, so I believe it is relevant.

1 BY MR. BAYER:

2 Q So you can --

3 A Okay. So they are treated equally no
4 matter what is the number of divers or instructors
5 they generate.

6 Q Okay.

7 A But they -- they all pay the same fees
8 and -- and everything.

9 Q Okay, but does IANTD's income and profit
10 depend on the number of certifications that come
11 through each of its global licensees?

12 A IANTD depends on all of the revenues that
13 he produces, and licensees is one of them.

14 Q Okay. So it -- do all licensees pay the
15 same --

16 A Fee.

17 Q Do they all pay the same fee to be a
18 licensee? Let me ask it to you in two -- I'm going
19 to ask it to you in two questions.

20 A Okay.

21 Q Do all licensees pay the same quote,
22 unquote, license fee?

23 A Yes.

24 Q Okay. Do you know what the annual
25 license fee is?

1 A Yes.

2 Q Okay. How -- can you tell me how much it
3 is?

4 A I just...

5 THE WITNESS: I just don't know whether
6 it's relevant or not.

7 MR. ROBINSON: Well, if you know it, tell
8 him.

9 THE WITNESS: \$20,000 to become a
10 licensee.

11 BY MR. BAYER:

12 Q Okay. And then in addition to the annual
13 license fee, does IANTD derive a per-person or
14 per-certified diver fee?

15 A Yes.

16 Q Okay. So then certain licensees would
17 generate more revenue for IANTD Headquarters, than
18 others; is that a fair statement?

19 A Correct.

20 Q Okay. Where did Add Helium fit in terms
21 of revenue producers for IANTD in 2016?

22 A That, I'd have to go and look.

23 Q Okay. Do you think they were one of the
24 more profitable licensees for IANTD --

25 A No.

1 Q -- or on the bottom?

2 A IA- -- Add Helium is not a licensee.

3 Q Okay.

4 A I'm sorry. Add Helium is not a licensee.

5 Q Okay. Is the licensee the actual

6 instructor?

7 A No. Licensee is the office.

8 Q The office. Okay. So in the case of Mr.

9 Sotis, who do you consider to be the office?

10 A The office that is responsible, that Add

11 Helium reports to H.Q. --

12 Q Okay.

13 A -- U.S.A.

14 Q And it's probably me, I'm just not

15 necessarily understanding it, so --

16 A A licensee, let's say you were in

17 Brazil --

18 Q Uh-huh.

19 A -- Bruce is in Lebanon, Mr. Jennifer is

20 in Russia, these are licensees.

21 Q Okay.

22 A They are local office, responsible for

23 training in their territories.

24 Q Okay.

25 A They report to H.Q.

1 Q Okay. So which office did Mr. Sotis fall
2 onto?

3 A H.Q. --

4 Q Okay. So he --

5 A -- U.S.A.

6 Q -- okay. So he was the U.S.A.

7 license- -- is there more than one licensee in the
8 U.S.A. --

9 A No.

10 Q -- or just U.S.A.?

11 A Just U.S.A.

12 Q And does it go by country, or in certain
13 countries, are there more than one licensee?

14 A In certain ones -- in certain areas, the
15 licensee is responsible for more than one country.

16 Q Okay, but in the U.S., there's one
17 licensee, and that's the Headquarters here in Lake
18 City, correct?

19 A Yeah, but we are not considered as --
20 exactly as a licensee --

21 Q Okay.

22 A -- because we are H.Q.

23 Q Okay. So in other words, you don't pay
24 yourself the license fee, but in other respects, you
25 function as the licensee, at least with respect to

1 your --

2 A We can say --

3 Q -- instructors?

4 A -- we can say, yes.

5 Q Okay. In terms of individual instructors
6 in 2016, was Mr. Sotis a high-revenue producer for
7 IANTD or mid-range or lower range?

8 A Middle range --

9 Q Middle range.

10 A -- from the top of my head. I would need
11 to run reports to know for sure.

12 Q Sure. And when I say Mr. Sotis, would --
13 I would ask you to include the other instructors who
14 work underneath him; is that how you consider it,
15 or...

16 A Well, that depends --

17 Q Okay.

18 A -- if you talk about the instructor or
19 facility.

20 Q Okay. So in terms of the facility that
21 Mr. Sotis worked out of, how do they fit in
22 globally, higher-revenue producer, mid-range or
23 lower?

24 A I would say mid-range, as well.

25 Q Do you have an ownership interest in

1 IANTD?

2 A Yes.

3 Q Okay. What percentage of the company do
4 you own?

5 A 15.

6 Q Okay. Did you have a buy in, or were you
7 conferred with an ownership interest in
8 consideration of moving here?

9 A No. I -- I bought in.

10 Q What was your buy in?

11 A What do you mean, what -- what was my buy
12 in?

13 Q How much did you pay for your 15-percent?

14 MR. ROBINSON: Let me object to that --

15 THE WITNESS: I don't see the relevance.

16 MR. ROBINSON: -- I think that's personal
17 data under 2.425 under the Rules of Judicial
18 Administration; and I don't think that's
19 calculated to lead to anything admissible in
20 this case, and we object to it, but to avoid --
21 I mean, we'll let the Court deal with it.
22 We'll raise it with the Court.

23 Answer him, if you can.

24 THE WITNESS: It was the -- for the

25 15- -- 1 -- 100- -- 137, around that ballpark.

1 BY MR. BAYER:

2 Q Okay. Now, with respect to the Rob
3 Stewart incident, do you have personal knowledge of
4 that particular event as it relates to IANTD, the
5 actions that resulted?

6 A What do you mean, "personal knowledge?"

7 Q Were you personally involved in any of
8 the actions taken by IATND resulting from Rob
9 Stewart's death?

10 A I'm sorry. I just don't -- I just want
11 to understand --

12 MR. ROBINSON: If you don't understand
13 the question --

14 THE WITNESS: Yeah, no, that's what I'm
15 saying -- I just want to understand, what do
16 you mean about -- what was it again?

17 BY MR. BAYER:

18 Q I wanted to know -- I'll try to ask it a
19 different way. Were you involved in any decision
20 made by IANTD, which IANTD made as a result of Mr.
21 Stewart's death? It's a very broad question.

22 A I was not involved on the -- with the
23 Board.

24 Q Okay. What was your involvement, if any?

25 A With the Board, just as a viewer.

1 Q Okay. When did IANTD learn about Mr.
2 Stewart's death; do you know?

3 A When we got aware of it?

4 Q Yes, when did you --

5 A Of the accident?

6 Q When did you first learn of the accident?

7 A I don't remember exactly who -- who told
8 us there was an accident. I don't remember.

9 Q Okay. My question -- initial question
10 was, when did you learn about it; and let's say, did
11 you know about the accident within the --

12 A On the --

13 Q -- first 24 hours; did you find out about
14 it a week later? When did you --

15 A I think on the first 24 hours, we -- I
16 was aware of it --

17 Q Okay.

18 A -- yes.

19 Q And do you have any personal knowledge of
20 how IANTD was advised of Rob Stewart's death; that
21 is, who told IANTD about it?

22 A That's what I don't remember, from the
23 top of my head.

24 Q Who from the company would have -- would
25 be able to answer that question?

1 A I don't know, maybe Tom.

2 Q Okay. Do you know when --

3 A -- because it's one of us.

4 Q Okay. When did you become aware of it in
5 relation to the notification to the company,
6 regardless of who communicated that, which I
7 understand you don't know?

8 A Yeah, I don't remember --

9 Q Okay.

10 A -- but at -- at the right moment that
11 I -- we had knowledge with, was not later. It was
12 the same day --

13 Q Okay.

14 A -- that the information came.

15 Q So even if you didn't receive -- I'll
16 loosely say, the phone call, and it could have been
17 an e-mail, whatever it was -- but even though you
18 don't recall how that came, do you believe that you
19 learned of it in fairly close proximity of the --

20 A Yes.

21 Q Okay. What, if anything, did IANTD do
22 after being notified of Mr. Stewart's death?

23 A What was --

24 Q What action did IANTD take; did you do
25 nothing; did you wait for additional information;

1 did you retain an investigator?

2 A We come --

3 Q What, if anything, did you do?

4 A We contacted Peter.

5 Q Okay. Do you recall who contacted Peter?

6 A Tom.

7 Q Okay. What, if anything, did Tom ask
8 Peter to do, or what -- do you know what they
9 discussed?

10 A If -- the initial, you know, discussion
11 was if it was a training or not.

12 Q Okay. What's your understanding of what
13 it was; was it a training?

14 A My understanding?

15 Q Yes.

16 A I -- I believe it was, but...

17 Q Okay. And what are you basing that
18 belief on, what facts?

19 A Just a minute.

20 Q Sure, take all the time you need.

21 A Actually, so the -- being a training or
22 not actually was after some information that came.

23 Q Okay.

24 A -- not up front.

25 Q Okay. And what are you --

1 A Up front, we was told it was not a
2 training, that it was...

3 Q Okay. And what information lead you to
4 believe that it was a training; what did you learn
5 subsequently that --

6 A The request to remove a certification,
7 because it was -- the class was not finished.

8 Q Who made the request to remove the
9 certification; do you recall?

10 A Ken and Peter --

11 Q Okay.

12 A -- initially, Ken.

13 Q Do you know the circumstances under which
14 the request for certification was made that lead, in
15 turn to it being requested to be removed?

16 A What do you mean?

17 Q In other words, did you ever ask anybody
18 at Add Helium why they were asking for the
19 certification to be removed?

20 A Yes.

21 Q Okay. And what's your understanding of
22 what the basis for that was?

23 MR. ROBINSON: Let me -- are you asking
24 what he was told the basis was, or what he
25 understands the basis to be?

1 MR. BAYER: I'm asking what he
2 understands it to be.

3 MR. ROBINSON: Okay.

4 BY MR. BAYER:

5 Q I'm looking for your personal knowledge,
6 if you have any.

7 A I was told to request to remove --

8 Q Okay. And who --

9 A -- and I did not ask why.

10 Q Okay. Who told you that?

11 A Initially, Ken, and then Peter.

12 Q Do you know if those certification cards
13 were ever physically given to either Mr. Cahill or
14 Mr. Stewart?

15 A I -- no.

16 Q Okay. Do you --

17 A You mean -- just -- let me just ask
18 you --

19 Q Okay.

20 A -- one question, if I can.

21 Q Sure.

22 A When you say, if they were ever given, if
23 it's that -- if I know that -- if the certifications
24 were sent out of the office --

25 Q Yes.

1 A -- or if they were give -- or let's say

2 Add Helium gave the credentials to them?

3 Q Yes. I'm asking do you know if --

4 A What is the question?

5 Q Okay. The question is, do you know

6 whether Add Helium gave the credentials --

7 A That --

8 Q -- to the students?

9 A No. That, I can't tell.

10 Q Okay. So you don't know whether they
11 were technically certified by Add Helium; all you
12 know -- correct -- would you agree that you know
13 that a request was made for the cards, and the cards
14 were issued by IANTD and sent to Add Helium --

15 A Okay.

16 Q -- is that correct?

17 A Yeah. But you said something first
18 that -- that is a, no.

19 Q Okay, but what is the no? I'm not trying
20 to trick you.

21 A Yeah. You said something that --

22 Q This is educational for me, too.

23 A Yeah, you said something about the -- the
24 certification was issued, but the training was not
25 complete; you know, once the certification is

1 requested, it means that the training is done,
2 completely from zero to hero, all of the Ts are
3 crossed --

4 MR. ROBINSON: (Cell phone rings.)

5 I thought I turned this thing off.

6 THE WITNESS: -- so the -- the request
7 means that the training is done.

8 BY MR. BAYER:

9 Q Now, IANTD is one of the certification
10 agencies that actually has the equipment issuance of
11 its own cards; is that correct?

12 A That, what?

13 Q That you have the -- IANTD is one of the
14 few agencies that has the machinery to print its own
15 certification cards; would you agree with that
16 statement?

17 A No.

18 Q Okay. Do you know whether your
19 competitors print the cards themselves, or whether
20 they have third-party vendors doing that actual work
21 for them?

22 A I can't reply for all of them.

23 Q Okay. You have the equipment that
24 enables you to generate the card on the spot; is
25 that correct?

1 A IANTD?

2 Q Yeah.

3 A When you say, on spot -- on -- on issue.

4 Q On request?

5 A Yes.

6 Q Okay. Does IANTD take the position that
7 once the certification is requested, even if it was
8 requested mistakenly, that it can't be undone?

9 A Yes.

10 Q Okay. Even if the card is not issued or
11 handed to the student?

12 A Yes.

13 Q So in other words, to oversimplify it, am
14 I correct that if a certification is requested,
15 there's no way IANTD will put the card in reverse?

16 A Correct.

17 Q Okay. Even if the requesting facility
18 says, we didn't mean to do this?

19 A Correct.

20 Q How many employees does IANTD have in
21 Headquarters, here?

22 A In which period?

23 Q 2017, let's say, right -- right --

24 A 2017?

25 Q First quarter of 2017?

1 A Three.

2 Q Three. Okay. That would -- so I'm
3 assuming that's you and Mr. Mount, and who's number
4 three?

5 A Melanie.

6 Q Okay. Who is Melanie?

7 A Melanie, the person that gets the
8 request, and usually, that's -- to process the
9 certification.

10 Q Okay. What is Melanie's last name?

11 A Faircloth.

12 Q Is she still employed --

13 A No.

14 Q F-a-i-r-c-l-o-t-h?

15 A F-a-i-r-c-l-o-t-h, correct.

16 Q Do you know if she's still here in Lake
17 City?

18 A Yes.

19 Q Okay. Now, does the company have her
20 last known address in her personnel file?

21 A Yes.

22 Q Who performs Melanie Faircloth's function
23 today?

24 A I do.

25 Q So are there two employees presently

1 then, rather than three?

2 A Correct.

3 Q Okay. So right now, in the office here
4 in Lake City, in Headquarters, there's you and Mr.
5 Mount; is that correct?

6 A Correct.

7 Q I think, I believe I've seen the name of
8 Mr. Mount's son on certain corporate documents; does
9 he have an active function in the company?

10 A Not anymore.

11 Q When did he cease being involved in the
12 company?

13 A I don't remember the exactly [sic] date,
14 but at some point -- on the 16th, I believe. I'm
15 not --

16 Q Is --

17 A I'm not sure.

18 Q All right. Do you know whether he has
19 any ownership in the company?

20 A No. Yeah, he don't have.

21 Q Okay. Did he, at any time that he worked
22 there?

23 A Yes.

24 Q Okay. So did he relinquish his ownership
25 interest when he left the company?

1 A What is relinquish? I'm sorry.

2 Q He'd give it up, return it to the
3 company.

4 A Yes.

5 Q So getting back to the incident, I think
6 we -- where we left off, I think I got sidetracked,
7 and I apologize. I'm not trying to mix it up on
8 you. I think you said that within the first
9 24 hours, somebody got a call?

10 A Correct.

11 Q And so it -- and in 2017, was it just you
12 and Mr. Mount that were in the office at that time,
13 or was anybody else working in --

14 A The accident was in '17?

15 Q Yes. I think it was --

16 A No, it was '16, January -- no, '17, '17,
17 '17. I'm sorry.

18 Q So in January of 2017, how many people
19 were in the office?

20 A Three.

21 Q Okay. So -- and Melanie was still there
22 at that time or --

23 A Correct.

24 Q That's fine. So it was one of the three
25 of you that got the call, and it was --

1 A It was -- was -- was Tom.

2 Q It was Tom. Okay. And you don't recall
3 or know who actually contacted him?

4 A No.

5 Q Okay.

6 A I don't even remember if it was a phone
7 call or a text or what.

8 Q Okay. And I think you indicated to me
9 that the next thing you recalled was an incident
10 report?

11 A No. There was some -- some other things
12 that happened in between.

13 Q Okay. What happened in between?

14 A Just conversations between Peter and
15 IANTD.

16 Q Okay. Anybody else involved in those
17 conversations?

18 A IANTD and Peter.

19 Q Who at IANTD was involved in the
20 conversations?

21 A The training director, Tom and -- and I,
22 and the Training Consultant, John.

23 Q Okay. So it was Joe --

24 A No. Joe -- Joe was not the training
25 director at that time.

1 Q So who was --

2 A Mark Fowler.

3 Q Mark Fowler. Okay. And then John Jones?

4 A Correct.

5 Q Okay. Do you recall any of the
6 discussions that you had, what -- what they focused
7 on?

8 A To collect information about the
9 accident.

10 Q Okay. I -- can I assume then that IANTD
11 or -- acts with diligence when there is a death
12 situation?

13 A Yeah, just to make sure, diligent --

14 Q Okay. And I --

15 A And I'm sorry, sometimes -- I'm from
16 Brazil, so my English is not --

17 Q Yeah. If there's a death, you take it
18 very seriously?

19 A Correct.

20 Q Okay. In -- in the past -- let's go back
21 to 2016; were there any IANTD deaths related -- any
22 deaths involving IANTD's students or instructors?

23 A I'd have to look.

24 Q Okay. You don't recall off the top of
25 your head?

1 A No. I'd have to look.

2 Q How about --

3 A I have that information, but I'd have to
4 look.

5 Q In 2015, do you know whether there were
6 any deaths involving IANTD's students or
7 instructors?

8 A I believe so, but not in training --

9 Q So at -- with -- I know you said you
10 would --

11 A -- in '15.

12 Q I know you in '16 -- you don't recall - -

13 A In '16, I would need to look.

14 Q -- you don't recall --

15 A Yeah, I would need to look.

16 Q -- but is that -- you don't recall
17 whether there were any incidents, or you don't
18 recall whether or not they involved training?

19 A I need to look for both.

20 Q Okay. After you received the incident
21 report from Mr. Sotis, what was the next -- what
22 happened next; what, if anything, did INTD [sic] --
23 did IANTD do?

24 A We went through the -- the report, the
25 incident report.

1 Q Now, who is, "we"?

2 A Me and Tom --

3 Q Okay.

4 A -- and the training director.

5 Q And in respect to the incident report,
6 did you take any -- what action did you take, if
7 any?

8 A We -- from the top of my head, I would
9 say that -- with the incident report and the other
10 information, it was decided to establish a Q.A. --

11 Q Okay.

12 A -- Board.

13 Q All right.

14 MR. BAYER: And, just for the record, I'm
15 just going to show you a blank form. I'll mark
16 this as Plaintiff's Exhibit 1 to your
17 deposition.

18 (The documents last-above referred to
19 were marked for identification as Plaintiffs'
20 Exhibit Number 1.)

21 (Documents tendered to the witness.)

22 BY MR. BAYER:

23 Q We've had some discussions about an IANTD
24 Incident Report Form; is that the form that -- I
25 recognize this is a blank one.

1 A I know.

2 (Witness perusing documents.)

3 Correct.

4 Q Okay. Actually wait, there's a fourth
5 page that goes with it, I'm sorry.

6 (Document tendered to the witness.)

7 A (Witness perusing document.)

8 MR. BAYER: And then, just for the
9 reference, I put Bate stamp numbers on the
10 documents as you produced them.

11 MR. ROBINSON: Okay.

12 BY MR. BAYER:

13 Q But I do want to add, also, that -- and
14 I'll ask you questions about that; the one that --
15 it shouldn't have been marked, but it was. The one
16 that's IANTD 00097, that's the page that has the
17 emergency assistance contacts that is Mr. Jenni and
18 Mr. Witherspoon, correct?

19 A Correct.

20 Q Okay. Let me ask you first, who in
21 conjunction with this lawsuit -- do you recall
22 receiving written questions from our side of the
23 case, the interrogatories?

24 A Yes.

25 Q Okay. And do you recall also receiving a

1 request for certain documents? It's -- we call it a
2 Request for Production?

3 A (No audible response.)

4 Q We asked for certain records of the
5 company?

6 A I -- I don't remember.

7 Q Okay. Do you know who assembled those
8 documents?

9 A Which kind of documents?

10 Q The documents that were responded to in
11 our Request for Production?

12 A I -- I need to remember what kind of
13 documents, so -- so I can't answer, because I don't
14 remember.

15 Q Okay.

16 A It's not that I don't -- I can't answer
17 it, or I don't remember, but I can't tell.

18 MR. BAYER: I don't think that I brought
19 the -- do you have a copy of the actual Request
20 for Production?

21 MS. BIEWEND: (Documents tendered to the
22 witness.)

23 MR. BAYER: Thank you very much.

24 MS. BIEWEND: Let me make sure it doesn't
25 have notes on it.

1 Bruce, can you make sure it --

2 MR. ROBINSON: Yeah, let me look and make
3 sure.

4 THE WITNESS: (Documents tendered to Mr.
5 Robinson.)

6 MS. BIEWEND: I don't think it does.

7 MR. BAYER: I don't need to mark it
8 either.

9 MR. ROBINSON: No notes.

10 (Documents tendered back to the witness.)

11 THE WITNESS: Yeah, so -- yeah, it was me
12 and Tom that worked on this.

13 BY MR. BAYER:

14 Q Okay.

15 MR. BAYER: I'll just mark that as
16 Exhibit B, just so that I have it, actually.

17 THE REPORTER: Just a quick question, we
18 marked the first Exhibit as 1, so would you
19 like this to be 2?

20 MR. BAYER: Yes.

21 THE REPORTER: Okay. Thank you.

22 (The documents last-above referred to
23 were marked for identification as Plaintiffs'
24 Exhibit Number 2.)

25 BY MR. BAYER:

1 Q I'm just curious, in assembling the
2 documents and -- is there a reason why the contact
3 information wasn't provided to us along with the
4 first three pages of the form?

5 A I can't tell. It wasn't me that
6 developed that form.

7 Q And I'll show you what I'll mark as
8 Exhibit No. 3, which is the completed form and ask
9 you if you recognize that. And let me just note
10 that on Page 3, it says, there's a handwritten
11 notation that says something about the fourth page
12 that was written by my associate, and that was not
13 on the document that was provided to us.

14 (The documents last-above referred to
15 were marked for identification as Plaintiffs'
16 Exhibit Number 3.)

17 A (Witness perusing documents.)

18 MR. ROBINSON: What page was that on?

19 MR. BAYER: It's on the final page;
20 you'll see it when you get to it.

21 MR. ROBINSON: Oh, okay.

22 MR. BAYER: It looks like it's written in
23 a black Sharpie, almost. It's just right down
24 at the bottom on the right-hand side there, it
25 says --

1 MR. ROBINSON: Missing Page 4.

2 MR. BAYER: -- Missing Page 4.

3 MR. ROBINSON: All right.

4 BY MR. BAYER:

5 Q So is that the incident report that you
6 recall receiving?

7 A Yes.

8 Q Okay. And it was that incident report
9 that lead you to convene the Q & A Board, in part
10 with the discussions that took place; is that
11 correct?

12 A Correct.

13 Q Okay. What is it in the -- what, if
14 anything, in the incident report alarmed you or
15 caused you to convene the Q & A Board?

16 A (Witness perusing documents.)

17 The Q.A. Board actually was convened
18 based on, like I said, the combination of factors,
19 not only the incident report.

20 Q Okay, but you've just reviewed the
21 incident report, so let me just take that first and
22 ask you again, is there anything in the incident
23 report that was a red flag or that jumped out to you
24 that said, maybe we should go further with this, or
25 is it a combination of --

1 A A combination of --

2 Q Okay.

3 A -- all of the factors.

4 Q Okay. So what other factors lead you to
5 convene the Q & A Board?

6 A The communication and information that we
7 discussed.

8 Q Okay. Which communications?

9 A The talking with -- with Peter.

10 Q Okay. So it was just based on your and
11 Tom's discussions with Peter?

12 A And of course, we was, like I said,
13 giving all of the information to the training
14 director, as well --

15 Q Okay.

16 A -- and looking for...

17 Q Okay. Did you speak to anybody else,
18 other than the training director, Peter or Mr.
19 Mount?

20 A About?

21 Q About anything that would have factored
22 into your convening of the Q & A Board?

23 A John Jones, the training consultant.

24 Q All right. Anybody else outside of that
25 group?

1 A No.

2 Q Do you recall anything in particular of
3 those discussions that triggered or caused you to
4 agree with the convening of the Q & A Board?

5 A The informations that we received --

6 Q Okay. And which --

7 A -- that this --

8 Q Which informations then? That's -- I
9 just want to know what -- what information is it
10 that caused you to convene the Q & A Board?

11 A The request to remove certification after
12 the -- the diver was dead.

13 Q Okay.

14 A The fact that the dives were below his
15 capability, as well, if he was not certified, so we
16 needed more information.

17 Q Okay. So we have the recalls of the
18 certification, the depths of the dives?

19 A Yeah, yeah.

20 Q And what was the -- there was one other
21 thing you said to me, and I apologize.

22 A That was --

23 Q What was the other factor, or was it just
24 those two?

25 A Well, I would need to go through the --

1 the documentations.

2 Q Okay. As you sit here today, what do you
3 recall them -- just -- you just recall the
4 certification, you recall an issue with the depths
5 of the dives; anything else that comes to mind?

6 A Like I said, if the -- the fact that if
7 he was not -- if he did not complete his -- his
8 training, like he [sic] was stated later, as well,
9 so he was diving beyond his certification level.

10 Q But I think you previously told me you
11 understood that he was still doing his training?

12 A That's -- that's what I'm saying, so he
13 will -- first of all saying, he was -- there was no
14 training, then there was saying that there was
15 training. So there was -- there was those kinds of
16 confusions that we needed to clarify. That's why
17 we -- we established, as well. So there was a lot
18 of confusion on the information.

19 Q When in relation to Mr. Stewart's death
20 did all of this happen, how quickly did you convene
21 the Q.A. Board?

22 A I don't remember the exactly [sic] date,
23 March -- March -- between March 3, 4 -- I don't
24 remember, from the top of my head.

25 Q Now, at this point in time, had you taken

1 any action of any kind against Mr. Sotis, either
2 temporary or permanent?

3 A Temporary, no-teaching status.

4 Q Now, we went through the Request for
5 Production and the documents; I think I had
6 mentioned to you earlier that you -- that we had
7 also sent you interrogatories that are written
8 questions --

9 A Yeah.

10 Q -- and I'll show you these and the
11 answers and ask you if you recall looking at those
12 questions and assisting in the preparation of the
13 answers.

14 (Documents tendered to the witness.)

15 A (Witness perusing documents.)

16 That's correct.

17 Q Okay. In Response to Interrogatory, No.
18 3, I had asked you who the Board was, and the
19 response lists four people, and it lists: Mark
20 Fowler, Kenneth Hill, Joe Dituri and Ronald C.
21 Possato Venancio; those were the four people -- and
22 I am correct that those are the four people that
23 comprised the Q & A Board that you convened?

24 A The Q.A. Board?

25 Q Yeah.

1 A Yes. That's the -- Mark was the Training
2 Director --

3 Q Okay.

4 A -- to assert the Q.A. Boards.

5 Q Okay. So if I don't count Mark in there,
6 I -- I just count the three people, Kenneth Hill,
7 Joseph Diturì and Ron Venancio. Now, at the time,
8 what was Mr. Hill's relationship or affiliation with
9 IANTD?

10 A An instructor with us --

11 Q Okay.

12 A -- an instructor/trainer with us.

13 Q What about Mr. Diturì?

14 A Same thing.

15 Q Instructor/trainer?

16 A Uh-huh.

17 Q And Mr. Venancio?

18 A Same thing.

19 Q Okay. How were each of these people
20 selected; let's start with Mr. Hill?

21 (Document's tendered back to the witness.)

22 A Mr. Hill is -- is not -- of course, Peter
23 is a no name --

24 Q Okay.

25 A -- okay? So -- but as far as I know, he

1 did not have any personal relationship with -- with
2 Peter, and Mr. -- Mr. Hill is also a retired U.S.
3 Marshal.

4 Q Okay.

5 A So we judged that he was a -- would be a
6 good person to be on this Board, because of -- also,
7 his position, he would be very impartial.

8 Q Okay.

9 A Joe Dituri was our former training
10 director --

11 Q Okay.

12 A -- at that time, also retired full
13 commander in the Navy. He knew Peter --

14 Q Yeah.

15 A -- but his positions and his credibility
16 would not interfere with this.

17 Q How could you be sure, given the fact
18 that he knew Peter fairly well?

19 A Because of my trust on -- on Joe Dituri,
20 on all of his credentials and used to deal with
21 these kind of situations.

22 Q Has he been on previous Q & A Boards?

23 A He -- he was the former training
24 director, so yes.

25 Q Okay. Had he ever been on a Q & A Board

1 for a diver death?

2 A I can't -- I can't answer that question
3 precisely.

4 Q And the final gentleman?

5 A Yeah, so I was just waiting for you to
6 finish with Joe.

7 Q Yeah.

8 A Ronald Possato is from Brazil.

9 Q Okay.

10 A He don't have -- again, he knows the
11 name, but not personal relationship with Peter.
12 He's also special operations captain or -- no, he's
13 doing colonel right now, so this -- but he's special
14 operations captain, and usually treated -- deal with
15 this kind of process and -- and documentation.

16 Q Does he have any affiliation with your
17 company in Brazil --

18 A He is one of our ITT -- he's a member of
19 IANTD. Every -- every instructor, despite where he
20 lives --

21 Q Uh-huh.

22 A -- he -- he's affiliated through a
23 licensee, but he is an IANTD member --

24 Q Okay.

25 A -- worldwide.

1 Q So he would be a IANTD member, and his
2 license or affiliation would be you; would that be
3 correct?

4 A Correct.

5 Q Okay. And would you be listed --
6 would -- at the time, would you have been Mr.
7 Dituri's licensor, as well? He would have been the
8 Headquarter's licensee?

9 A Everybody is related to H.Q. --

10 Q Okay.

11 A -- to work -- it's -- you're not -- if
12 you're in another country, that is a licensee's
13 responsibility for the territory; it doesn't mean
14 you're not affiliated with IANTD H.Q. All of the
15 members are affiliated to us.

16 Q And are the people on the Q & A Board --
17 and I'm sorry if I asked you this -- they're just
18 selected from the general membership, or are they
19 people that are known to you; is there a separate
20 pool of people that you identify as having the
21 potential to be on the Q.A. Board?

22 A Like, we -- we will -- we already had
23 said it depends. We select based on their knowledge
24 and what we think about -- of their capabilities.

25 Q Okay. When you convene a Q & A Board,

1 what do you tell them, initially?

2 A That there's a Q.A. that is going to be
3 established. If they are willing to participate,
4 and then, here's all of the information that we
5 have.

6 Q Do you recall what information you gave
7 the Q & A Board initially, regarding Mr. Sotis?

8 A Again, like we previously stated, all of
9 the information that we received, along with the
10 incident report.

11 Q Okay. After providing the Board with the
12 information that you turned over to them -- and let
13 me ask you a question, is there a separate file
14 that's maintained at IANTD, which would be the Q & A
15 Board convened for the death of Rob Stewart?

16 A What do you mean, "a separate file?"

17 Q In other words, do you keep that -- do
18 you keep Q & A -- when you convene a Q & A Board, do
19 you keep a separate, you know, file folder; do you
20 keep -- is there like, just a file on the Q & A
21 Board, and what -- what you provided them, and what
22 they returned to you?

23 A Yes.

24 Q Okay. Is that kept in the Headquarters'
25 office?

1 A Correct.

2 Q How long did the Q & A Board evaluate Mr.
3 Sotis' incident?

4 A How long?

5 Q Or Mr. Stewart's incidence, yeah. From
6 the time you instructed them, until the time they
7 made a determination, do you recall how much time
8 passed?

9 A The accident was in February --

10 Q January 31st?

11 A The 1st, something like that --

12 Q Yeah.

13 A -- and the suspension was issued on
14 March 8th.

15 Q So it took them roughly, five weeks?

16 A (No audible response.)

17 Q Four weeks, somewhere in there?

18 A From -- from the --

19 Q Well, let me ask you --

20 A -- time of the accident to the letter
21 sent, was March 8th.

22 Q Yeah, I should probably look at this a
23 little closer. So you're notified about the event,
24 you convened the -- I think you told me that you
25 convened the Q & Board about a week later; does that

1 sound right, or am I making that up?

2 A No. We need --

3 Q You --

4 A I need to -- I need to look.

5 Q Okay.

6 A I need to look.

7 Q So you don't know then --

8 A I have that information, but I -- I don't
9 have that in my head.

10 Q So it would -- would your information
11 include when you convened the Board and when the
12 Board made its final recommendation to you?

13 A Repeat, please.

14 Q Would the file that you have -- you said
15 you could look; you could tell when you convened the
16 Q & A Board, number one, correct?

17 A I can.

18 Q And would that file also tell me when the
19 Q & A Board made its decision?

20 A Yes.

21 Q Okay. Regardless of the date that they
22 made their decision, how is the decision
23 communicated to you; do you --

24 A By e-mail.

25 Q Okay. So do each of the four members

1 send you an e-mail, and then do you -- you and Mr.
2 Mount reach a consensus, or do they all have sort of
3 a circular-group e-mail going where they make a
4 decision and somebody ultimately presses the send
5 button to you and Mr. Mount saying this is what we
6 think?

7 A It's a -- it's a discussion by e-mail,
8 and then where they send us their recommendation.

9 Q Okay. And so the rec- -- what would that
10 recommendation say; would it -- was it a
11 recommendation to suspend Mr. Sotis; was it a
12 recommendation to expel Mr. Sotis? What was the
13 recommendation, if you recall?

14 A Two of them recommendation expulsion and
15 one suspension.

16 Q Okay. Do you recall who recommended the
17 expulsion?

18 A Joe Dituri and Ronald Possato.

19 Q Okay. And the other two --

20 A No, just one.

21 Q One. Okay.

22 A Mark Fowler --

23 Q Does not --

24 A Yeah.

25 Q Okay. He does -- he's not part of the

1 three?

2 A He --

3 Q He is, but he's not?

4 A He's not part of the Q.A. --

5 Q Okay.

6 A -- decision -- or recommendation, not
7 decision.

8 Q So once that recommendation is made, who
9 made the final decision?

10 A The B.O.D.

11 Q Okay. So that would be you and Tom?

12 A Me and Tom.

13 Q Okay. And in relation to the decision,
14 at that point I believe, you issued a letter to Mr.
15 Sotis on March 9th?

16 A March 9th, no.

17 Q Well, this is -- in your interrogatory
18 answers -- and let me just -- I could be confusing
19 this, but I asked you --

20 (Perusing documents.)

21 Okay. I'm sorry. I asked you for the
22 facts that the Board relied on in the interrogatory
23 answer --

24 A Yeah.

25 Q -- and I was directed to your March 9th

1 letter as having all of the facts that Mr. Sotis
2 relied on.

3 A Correct.

4 Q So let me just -- this was Exhibit A to
5 your -- and it was marked as part of -- it was
6 Exhibit Number 4.

7 THE REPORTER: You're marking that as
8 Exhibit Number 4?

9 MR. BAYER: Yeah. I thought I had asked
10 you to mark interrogatories as Exhibit No. 4.

11 (The documents last-above referred to was
12 marked for identification as Plaintiffs'
13 Exhibit Number 4.)

14 THE REPORTER: Okay.

15 MR. BAYER: Do you guys want to take a
16 five-minute break?

17 MR. ROBINSON: I would appreciate it.

18 MR. BAYER: You look like you want to
19 stretch your legs. Okay. Why don't we just
20 take a break.

21 THE WITNESS: This is not the
22 notification of the suspension.

23 MR. BAYER: Yeah. No, no, I understand.
24 We'll come back on it.

25 THE WITNESS: Okay.

1 MR. BAYER: We'll just take a five-minute
2 break.

3 THE REPORTER: Okay.

4 (Short recess.)

5 BY MR. BAYER:

6 Q So I think we left off now on this
7 March 9th correspondence, this is --

8 A This was the Request to Produce; this was
9 an e-mail from Peter asking, what was the
10 violations.

11 Q Okay. So this -- was this issue -- this
12 letter issued in response to the Q & A Board's
13 opinions, you know, or finding?

14 A Yes.

15 Q Okay. And did Mr. --

16 A And based on the IANTD standards.

17 Q Okay. Did Mr. Sotis respond to your
18 inquiry as set forth in the March 9th letter?

19 A Well, to this letter (indicating)?

20 Q Yes.

21 A No.

22 Q Okay. What was the purpose of this
23 letter?

24 A Produce the -- the answer requested by
25 Peter Sotis.

1 Q And what was Peter's question?

2 A I would need to read his e-mail to say
3 exactly his words, but generally was, please, can
4 you provide me the list of the violations --

5 Q Okay.

6 A -- something like that, but I need to --
7 I would need to look at the e-mail.

8 Q Now, did the Board determine which --
9 this list of violations, or is this something that
10 you compiled with Mr. Mount?

11 A No. This was compiled with Mark Fowler,
12 the Training Director, among -- with the decision --
13 the information received, and also, on the Q.A.
14 Board reports.

15 Q Okay. Were the Q.A. Board reports
16 just -- so I'm sure there's no, quote, unquote, Q.A.
17 Board reports --

18 A Yeah.

19 Q -- there's just the e-mails --

20 A Just e-mails, yeah. There's no report.

21 Q In those e-mails, are specific IANTD
22 standards discussed, whether they're adherence or
23 violation?

24 A This was taken from -- from the e-mails.

25 Q Okay. So the Q & A Board, along with Mr.

1 Fowler, I think you said?

2 A Yeah, the Training Director.

3 Q Is what lead to this particular -- the
4 issuance of this letter?

5 A Correct.

6 Q Okay. Now, with respect to the IANTD
7 standards, those were -- when were the first
8 original standards first issued; do you know?
9 There's --

10 A You mean the original standard, like when
11 the IANTD --

12 Q Yeah.

13 A -- was established?

14 Q Yeah.

15 A That didn't answer that -- Tom will be
16 able to answer, not myself.

17 Q And in the period of time -- well, do you
18 know what the current version is that's in effect
19 today?

20 A 20- -- 21.6.0, something like that --

21 Q Okay.

22 A -- but I need to verify, because I don't
23 remember at this point, if there's a point -- if
24 there's a .1 or not at the end. I can look if you
25 want.

1 Q Yeah, I just -- I will probably ask you a
2 written question about that, at some point --

3 A Okay.

4 Q -- because I don't -- I -- unless you
5 are -- are you able to tell me, in the past three
6 years, how many revisions there have been to the
7 IANTD Standards and Procedures Manual?

8 A No.

9 Q Okay. How -- what would -- what causes
10 a -- or triggers a modification to the Standards and
11 Procedures Manual?

12 A It can be a misspelling, and it can be,
13 also, a change on the ISO standards or RSTC
14 standards. Right now, we also say about RESA
15 standards, RTC standards and the lack of common
16 sense, sometimes.

17 Q Okay. Who makes the decision to amend
18 the standards and procedures; is that you and Mr.
19 Mount as the directors?

20 A It's the discussion between the B.O.D.,
21 the training director, right now the quality
22 assurance director and...

23 Q So any of those four people could trigger
24 something?

25 A Anybody can trigger something. An

1 instructor can request a suggestion to change the
2 standards.

3 Q Between the time of Rob Stewart's death
4 and Peter Sotis' suspension, were there any
5 changes --

6 A Yes.

7 Q -- to the procedures?

8 A To the standards, yes.

9 Q Okay. Do you recall what the -- what --
10 I'm not asking you for the version number, per se?

11 A I know.

12 Q But what changes were affected?

13 A We got -- we renew our ISO certificate,
14 so we would have had to do some modifications.

15 Q Okay.

16 A We became member of the Recreational
17 Training Scuba Council.

18 Q Just let me back up for one second,
19 because sometimes these transcripts are read by
20 judges, and while everybody in the room knows what
21 an abbreviation is, the judge will look at it in
22 this case and go, what is ISO. So can you just
23 state on the record what ISO is, please?

24 A International Standard Organization --

25 Q Okay.

1 A -- something like that. I'd need to
2 look.

3 Q And what does ISO do?

4 A They establish minimum standards, so we
5 can -- so you can have -- so you can be -- what is
6 the word, in conformities with their ISO.

7 Q Okay. So you -- they issue standards, so
8 that you can be in compliance or conformance with
9 their standards?

10 A Yeah.

11 Q Okay. Is that for closed circuit or
12 closed circuit and open circuit?

13 A No, that's only open circuit.

14 Q Only open circuit?

15 A Correct. In the case of ISO, only open
16 circuit.

17 Q Open circuit. Okay. Is there any
18 parallel organization or standard that governs
19 closed-circuit diving?

20 A We have the Rebreather Training Council.

21 Q Okay.

22 A There's the RS- -- the RTC that I
23 mentioned.

24 Q Okay. And RTC, actually -- and I'll ask
25 you the same question; what does that stand for?

1 A Yeah, that's Recreational Training
2 Council.

3 Q Okay.

4 A There is also the RESA, so it's
5 Recreational Association -- no -- Rebreather
6 Education and Safety Association.

7 Q Is RESA a global association or just
8 domestic here in the U.S.?

9 A We can say it's global.

10 Q Are they based here in the U.S.?

11 A They're based in the U.S.

12 Q Okay. Are you under any obligation to
13 track what these -- the roles that these
14 organizations propagate?

15 A What do you mean, if I'm under the
16 obligation?

17 Q In other words, do -- should you, as
18 somebody involved with closed-circuit rebreather
19 training, do you try to track what these industry
20 standards are or -- in your -- in the establishment
21 of your Standards and Procedures Manuals?

22 A If we -- let me just make clear, so I can
23 answer properly; when you say, "track," if we
24 incorporate --

25 Q Yes.

1 A -- in your standards --

2 Q Yes.

3 A -- that's what you mean by track?

4 Q Yeah, that's fine.

5 A Yeah, so -- so yes.

6 Q Okay. Who are IANTD's main competitors?

7 A Recreational Technical Rebreather.

8 Q Rebreather?

9 A Yeah. We can say -- I would say TDI and
10 PADI.

11 Q So I guess, getting back to the
12 Procedures Manual and the number of changes, I think
13 you indicated at -- changes made after Rob Stewart's
14 death; do you recall any of the changes? I think we
15 got partially through the list, but not
16 completely --

17 A Yes.

18 Q -- through the list.

19 A Yes. We added that on any dive below
20 160-feet, a fresh scrubbery is required.

21 Q Anything else?

22 A Yeah. I'm just -- you tell me, because I
23 don't -- just so I don't --

24 Q Yeah, okay. Now is fine.

25 A So you tell me. No more than two

1 decompression dives in a single day.

2 Q Anything else?

3 A Decompression dives. Let -- let me just
4 remember, because there is two more.

5 Q Take your time.

6 A I know there's two more. I'm just
7 trying --

8 Q I appreciate it. It's tough to sit here
9 and --

10 A -- to remember. 160, no dives 160. Oh,
11 every day should be started with a fresh scrubber.

12 Q Okay. One more.

13 A Once -- once the training program
14 started, if there is a break, the diver cannot dive
15 beyond his previous certification. It's not exactly
16 [sic] word, but that's --

17 Q Yeah --

18 A -- what it means.

19 Q -- I understand what you're saying. So
20 until you complete the next level, you can't go --

21 A Beyond --

22 Q -- beyond the previous level?

23 A -- your previous level.

24 Q Okay. Were any of those enacted between
25 the time -- between Rob Stewart's death and Peter

1 Sotis' suspension?

2 A What? Were --

3 Q Were any of those incorporated into your
4 manual in that timeframe, between Rob Stewart's
5 death and Peter Sotis' suspension?

6 A They were incorporated on March 23rd.

7 Q And what version?

8 A 2000-

9 Q '17?

10 A '17.

11 Q And what version are those changes found
12 in?

13 A 21.0. -- well, 21., I think, .0.0, but --
14 21 is for sure, .0 or .1 and 0. I think 20- -- 21
15 is for sure. The last two numbers, I don't remember
16 exactly if it's -- I think it's 00, but I may -- I
17 may be mistaken, but there is the date on the -- on
18 the actual standard, and it's October -- March 23rd.

19 Q March 23rd. So regardless of the number,
20 whichever one says March 23rd, it --

21 A Correct.

22 Q -- was the one? Has there been changes
23 since March 23rd of 2017?

24 A Yes, yes.

25 Q What --

1 A That's when we did the process to renew
2 the -- renew our ISO and RSTC.

3 Q So is the -- you modified the process to
4 renew ISO, and what was the other?

5 A RSTC, the Recreational Scuba Training
6 Counsel. And, of course, other things, but I do not
7 recall all of the changes from that time.

8 Q Who ultimately made the decision to
9 suspend Mr. Sotis?

10 A Who ultimately made --

11 Q Yeah.

12 A -- the decision?

13 Q Correct, yes. The person --

14 A We followed the recommendation.

15 Q Okay. So it would have been you and Mr.
16 Mount?

17 A Correct.

18 Q Okay. Based on the recommendations of
19 the Board?

20 A Correct.

21 Q I understand.

22 MR. ROBINSON: And, just for the record,
23 that would be the Q & A Board, not the Board of
24 Directors.

25 THE WITNESS: Yes.

1 MR. BAYER: Yes.

2 BY MR. BAYER:

3 Q And what was the date of his final
4 suspension?

5 A March 8th.

6 Q Okay. So from the death of Rob Stewart,
7 through investigation, it was a period of five
8 weeks --

9 MR. ROBINSON: Asked and answered.

10 BY MR. BAYER:

11 Q -- roughly?

12 MR. ROBINSON: Asked and answered.

13 Go ahead and answer it, as best you can.

14 THE WITNESS: I can look in the calendar.

15 BY MR. BAYER:

16 Q Well, it adds up if he -- I'll ask you to
17 assume then, Mr. Stewart died on January 31st, and I
18 think you indicated that this final suspension came
19 down on March --

20 A March 8th.

21 Q -- March 8th. Okay. Is there any right
22 of appeal to a suspension with IANTD?

23 A Yes. 60 days after the suspension, the
24 letter. It was on the letter that was sent. 60 or
25 30 days, I don't recall from the top of my head, but

1 it's on the letter.

2 Q Did Mr. Jenni have any involvement in the
3 Q & A -- with the Q & A Board?

4 A No.

5 Q Okay. Did he provide any information to
6 them?

7 A No. At that time -- remember that I said
8 Mr. Robinson's office was not representing us --

9 Q Yes.

10 A -- we got some legal advice with Craig
11 Jenni, but he was not interactive with the Q.A.
12 Board.

13 Q Okay. And again, not asking what you
14 said to him, or what he said to you, but it was
15 legal advice surrounding or concerning the death of
16 Rob Stewart?

17 A Not exactly concerning the death. It
18 was -- like I said, it was some --

19 MR. ROBINSON: Well, don't go into the
20 subject about --

21 BY MR. BAYER:

22 Q Yeah. No, I don't -- don't -- I'm not
23 asking you what you said to him, and I'm not trying
24 to trick you in any way. I said to you up front
25 that I'm not -- I'm not going to ask you what you

1 said to him, and what he said to you.

2 A Let me fix my posture, I'm sorry.

3 Q When an instructor is suspended, is an
4 announcement made to other IANTD members that this
5 has happened; is there something that you publish?

6 A We publish on the website.

7 Q Okay. And how long does that stay active
8 on the website; is it throughout the life of the
9 suspension, or is it just a notification that comes
10 down over a certain period of time?

11 A It's -- I'm not 100-percent sure.

12 Q Okay. Who handles the posting of
13 information on your website; is that something you
14 do?

15 A Yeah, I do.

16 Q Okay. Do you recall what you posted on
17 your website concerning -- does it simply say Mr.
18 Peter Sotis, suspended, or does it give a reason?

19 A Just saying suspended. It don't give any
20 reason on the website.

21 Q Okay. On the website, you have consumer
22 alerts --

23 A Correct.

24 Q -- is that correct? And on the -- in the
25 consumer alert section, do you list expelled and

1 suspended instructors?

2 A Correct.

3 Q All right.

4 A Now -- yes.

5 Q And that merely gives the date that
6 somebody was suspended?

7 A And the location.

8 Q Okay. Give me two minutes, and I may let
9 you go home.

10 A No problem.

11 MR. ROBINSON: Do you want a few minutes
12 to go over your notes?

13 MR. BAYER: Yeah, why don't you do that.

14 MR. ROBINSON: If you -- do you want --
15 she'll give you a separate room, or we can step
16 out, whichever will be easier for you.

17 MR. BAYER: Just give me two minutes.

18 (Short recess.)

19 BY MR. BAYER:

20 Q Just with respect to the final dive that
21 Rob Stewart failed to complete, I guess,
22 unfortunately, what is your understanding of that
23 dive that day?

24 A What do you mean, what is my
25 understanding?

1 Q Well, let me back up a little bit and
2 say, do you have an understanding of, you know, how
3 it is that Rob Stewart and Brock Cahill came to be
4 on Pisces, the Horizon boat out of the Queen of
5 Nassau wreck?

6 A I still don't understand the question.

7 Q Okay. Do you know what the purpose of --
8 do -- well, strike that -- do you know whether Rob
9 Stewart chartered the Pisces for a specific purpose?

10 A With the report saying that he chartered
11 for the filming.

12 Q Okay. Do you know -- have any knowledge
13 as to whether or not, at the time he chartered the
14 boat, he had even approached Peter Sotis to join him
15 on that particular voyage?

16 A No.

17 Q Okay. Do you know the facts and
18 circumstances of the -- the two dives that took
19 place on the first day?

20 A If I know...

21 Q Did you look at any -- have you ever
22 looked at any of the data, or read any information
23 about anything that did or didn't happen on day one
24 of diving?

25 A I don't recall.

1 Q Okay. The second day, there were -- do
2 you know how many dives took place?

3 A The second day was the day that the
4 accident --

5 Q The --

6 A -- or not?

7 Q The day of the accident, yes, that was
8 the second day.

9 A Okay. The three dives as -- because of
10 the report.

11 Q Okay. And with respect focusing on the
12 third dive, what, if anything, do you know about
13 that dive?

14 A The only thing that I know that -- about
15 that dive is what is on the report, yes.

16 Q Okay. Do you remember what it says on
17 the report?

18 A That -- was to remove the anchor.

19 Q Okay. Do you know whether -- how it is
20 that Rob Stewart came to participate in that dive?

21 A Just what is written on the report, that
22 he offered.

23 Q He offered. Okay. That was not -- was
24 that something that he undertook voluntarily?

25 A I'm sorry?

1 Q Well, strike that -- do you know whether
2 he complied with all of Peter's instructions
3 regarding that dive?

4 A I don't know.

5 Q Okay. Do you place any responsibility or
6 blame or fault on Rob Stewart, in his death?

7 A Well, I don't know what he did, or he did
8 not do.

9 Q Do you consider a diver's comparative
10 fault, meaning something that he may have knowingly
11 done wrong in -- in decisions regarding one of your
12 instructor's credentials?

13 MR. ROBINSON: Let me object to that. I
14 think comparative fault implies a legal
15 question, but you answer it as best as you can.

16 THE WITNESS: But I need to understand
17 better. I'm sorry.

18 BY MR. BAYER:

19 Q In other words -- let me ask it without
20 the legal term; if you're -- do you ever look to see
21 whether or not the diver did anything wrong, in
22 addition to his instructor?

23 A I don't -- don't recall that.

24 Q Okay. You -- I'm asking as a general
25 procedure, you know, with other deaths or injuries,

1 do you ever look to see whether or not, for example,
2 the diver failed to follow the instructions of his
3 safety diver or trainer?

4 A I'm -- I'm not there, I don't know what
5 kind of orientation was gave.

6 Q Okay, but -- though my question is, is it
7 important in your taking disciplinary action against
8 an instructor to look at the actions of the person
9 who died or the person who was injured; in other
10 words, do you only look at it in terms of what the
11 instructor did and not what the student did?

12 A We don't know what the student did.
13 Well, we know what is on the reports and the
14 discussions.

15 Q Okay.

16 A He's not here to defend himself.

17 Q Did you consider any of Rob Stewart's
18 actions in your decision to suspend Peter Sotis?

19 A If I considered what?

20 Q Did you consider anything that Rob
21 Stewart did in your decision to suspend Peter Sotis'
22 credentials?

23 MR. ROBINSON: Let me object to that,
24 because I think he's answered that. They
25 anticipated the recommendation of the Q & A, so

1 I think that --

2 MR. BAYER: Don't --

3 MR. ROBINSON: -- misstates his previous
4 answer.

5 MR. BAYER: -- don't suggest the answers.

6 MR. ROBINSON: I'm not suggesting
7 answers, but I -- that's not what he said
8 earlier, but go ahead answer his question as
9 best you can.

10 THE WITNESS: We go through the
11 recommendations of the Q.A. Board, that's it.

12 BY MR. BAYER:

13 Q Do you recall whether or not anybody in
14 the Q & A Board raised any issues or concerns about
15 what Rob Stewart did or didn't do?

16 A Nobody did -- nobody knows what he did or
17 didn't do.

18 Q Okay. Did anybody ask? I guess that's
19 my question.

20 A There's no way we can ask.

21 Q Well, did anybody ask -- anybody -- do
22 you know whether anybody on the Q & A Board
23 contacted anybody else who was on the Pisces that
24 day?

25 A No.

1 Q Did you provide them with the statements
2 that were taken from the people who were on the
3 Pisces the day that Rob Stewart died?

4 A No.

5 Q Okay.

6 MR. BAYER: I have nothing further.

7 THE WITNESS: You mean during the Q.A.,
8 correct?

9 BY MR. BAYER:

10 Q During the Q.A.?

11 A No.

12 Q Okay. And so do -- is it -- was it -- do
13 you think it's not important for the Q & A Board to
14 consider the observations of the other people who
15 were there, in reaching their decision?

16 A They were not in there diving.

17 Q Who was not in the diving?

18 A People onboard.

19 Q Okay. The people onboard witnessed what
20 happened, correct, at least when -- after he got to
21 the surface?

22 A Just that, but that we've got on the
23 report.

24 Q Okay. So then, just to sum up, it --
25 there was no attempt made to independently contact

1 any of the other people who were on the boat,
2 correct?

3 A Correct.

4 Q Okay.

5 MR. BAYER: I think we're done. You have
6 the right to -- I guess, I'll let your attorney
7 explain to you --

8 MR. ROBINSON: He'll read.

9 MR. BAYER: He'll read. Okay. I'll
10 order. I'll just take a --

11 MR. ROBINSON: And we'll take a copy.

12 THE REPORTER: May I -- I'm sorry. May I
13 ask how you would like the transcript, and what
14 time frame?

15 MR. BAYER: No particular rush.

16 THE REPORTER: Okay. So regular time
17 frame.

18 MR. BAYER: Regular time is fine.

19 THE REPORTER: Okay.

20 MR. BAYER: I'd just like your -- I like
21 a full size, and I like a mini.

22 THE REPORTER: Okay. Hard copy and
23 electronic, or just a hard copy?

24 MR. BAYER: Actually, let's take the --
25 my ideal is just a mini and a hard copy, and

1 then a mini for the rest.

2 THE REPORTER: Absolutely.

3 MR. BAYER: Although, actually, I better
4 take the original -- you better give me the
5 original hard copy since we're ordering.

6 THE REPORTER: Okay. And I'm sorry, did
7 you want a hard copy Mr. Robinson?

8 MR. ROBINSON: Yes.

9 THE REPORTER: Okay. Thank you.

10 (Witness excused.)

11 (Whereupon, the deposition concluded at
12 approximately 3:50 p.m.)

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CERTIFICATE OF OATH

STATE OF FLORIDA

COUNTY OF COLUMBIA

I, Jami M. Stanley, Florida Professional Reporter, Notary Public, State of Florida, certify that the witness, LUIS AUGUSTO PEDRO, personally appeared before me on the 22nd day of August, 2018, and was duly sworn.

Signed this 5th day of September, 2018.



Jami M. Stanley
Florida Professional Reporter
Notary Public, State of Florida
My Commission No. FF 955126
Expires: May 15, 2020

CERTIFICATE OF REPORTER



STATE OF FLORIDA

COUNTY OF COLUMBIA

I, Jami M. Stanley, Florida Professional Reporter, certify that I was authorized to and did stenographically report the deposition of LUIS AUGUSTO PEDRO; that a review of the transcript was requested; and that the foregoing transcript is a true and complete record of my stenographic notes.

I further certify that I am not a relative, employee 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.

The foregoing certification of this transcript does not apply to any reproduction of the same by any means unless under the direct control and/or direction of the certifying court reporter.

Dated this 5th day of September, 2018.

A handwritten signature in cursive script that reads "Jami M. Stanley".

Jami M. Stanley, FPR, Court Reporter

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In Re: Add Helium, LLC and Peter Sotis vs.
International Association of Nitrox Divers, Inc.

Dear Mr. Pedro,

The referenced transcript has been completed and is being sent to you through your attorney for reading and signing purposes.

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

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

Thank you.

Jami M. Stanley, FPR,
Court Reporter

cc: Neil Bayer, Esquire
E R R A T A S H E E T

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IN RE: ADD HELIUM, LLC AND PETER SOTIS V.
INTERNATIONAL ASSOCIATION OF NITROX DIVERS, INC.

PAGE NO. LINE CHANGE AND REASON FOR CHANGE

Under penalties of perjury, I declare that I have read my deposition and that it is true and correct subject to any changes in form or substance entered here.

DATE

LUIS AUGUSTO PEDRO

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