

Part 3

1 JOHN RICHARD PAY

2 Q. With regard to Mr. Coopman, do you
3 know if he had a dotted line person that he
4 reported to?

5 A. Not that I'm aware of.

6 Q. Do you know who Judith Boynton is?

7 A. I believe she was -- I don't know
8 formally her job title, but I understood she was
9 a senior financial officer within the group.

10 Q. Do you know if Ms. Boynton was the
11 dotted line person to whom Mr. Coopman reported?

12 A. I think I already stated I'm not
13 aware of any dotted line relationships for
14 Mr. Coopman.

15 Q. Do you recall during the time
16 where Mr. Coopman served as the CFO of EP in
17 your tenure as GRC having discussed Shell's
18 reserves replacement ratio, generally speaking
19 now?

20 A. With whom?

21 Q. Mr. Coopman, I'm sorry?

22 A. From time to time, yes.

23 Q. Do you recall the sum and
24 substance of those discussions?

25 A. I would characterize them

1 JOHN RICHARD PAY

2 generally as being information similar to the
3 type of information we reviewed earlier under I
4 think it was Exhibit 5. So information on
5 latest estimates and so forth -- no, it wasn't
6 5. 6.

7 Q. Do you recall having discussions
8 with Mr. Coopman concerning the projects or
9 operating units that were identified on the
10 potential reserves exposure catalog?

11 A. Yes.

12 Q. When do you recall having those
13 discussions?

14 A. Specifically towards the end of
15 2002 we considered the items on the list and we
16 made proposals for the approval of Mr. Coopman
17 and Mr. Brass of certain debookings that we --
18 that I was recommending. So that is a specific
19 instance of, frankly the only one I can
20 specifically recall, of discussing those items
21 with Mr. Coopman.

22 Q. Do you recall Mr. Coopman
23 expressing any concern about the items on that
24 list?

25 A. At that time, no.

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2 Q. How about subsequent to that time?

3 A. In connection with project
4 Rockford, once the decision had been made to
5 recategorize reserves, Mr. Coopman expressed the
6 opinion to me that all items on the list ought
7 to be recategorized for the sake of prudence.

8 Q. Do you know if Mr. Coopman was on
9 a team that was responsible for conducting the
10 investigation that was project Rockford?

11 MR. TUTTLE: Objection,
12 foundation.

13 THE WITNESS: I only hesitate
14 because I'm not sure there was a defined team in
15 relation to project Rockford, but certainly from
16 the instigation of project Rockford I and
17 Mr. Coopman worked very closely on the project.

18 BY MR. HABER:

19 Q. Were there other people who you
20 worked closely with on the project?

21 A. Initially it was Mr. Bell and
22 Mr. Darley.

23 Q. Who is John Darley?

24 A. John Darley was the EP executive
25 responsible for the technology function within

1 JOHN RICHARD PAY

2 Exploration and Production.

3 Q. Prior to your work with Rockford
4 had you interacted with Mr. Darley in your
5 function as group reserves coordinator?

6 A. No, not substantially.

7 Q. When you say not substantially, in
8 what way did you interact with him?

9 A. He was, I believe, present, for
10 example, at ExCom meetings where I may have
11 delivered presentations containing information
12 similar to that contained in Exhibit 5. So he
13 would have been present when I was discussing
14 these conditions with ExCom generally, but I
15 don't recall any discussions with him one to one
16 with one another.

17 Q. Do you recall ever having any
18 discussions with Mr. Coopman concerning the
19 Sarbanes-Oxley Act of 2002?

20 A. Yes. I'm trying to remember
21 precisely when. Certainly in relation to
22 project Rockford, yes.

23 Q. And what was the sum and substance
24 of those discussions?

25 MR. TUTTLE: I'm just going to

1 JOHN RICHARD PAY
2 instruct the witness if those discussions
3 included counsel to Shell that we should go off
4 the record and talk about that to ensure we
5 don't waive a privilege inadvertently.

6 MR. HABER: Okay, that's fair.

7 MR. TUTTLE: If your discussion
8 involving Sarbanes-Oxley involved counsel we
9 should talk about that off the record.

10 THE WITNESS: That's not how I was
11 going to characterize my response.

12 MR. TUTTLE: Okay.

13 THE WITNESS: Really all I can
14 recall in relation to such discussions was that
15 Mr. Coopman took the Sarbanes-Oxley Act and
16 requirements and what it embodied very seriously
17 and I recall he spent a lot of time
18 familiarizing himself with that act and taking
19 actions, the detail of which I don't know,
20 within his financial community to ensure that
21 appropriate actions were taken, to assure
22 compliance. And my perception is that he saw
23 the role of reporting the Rockford project
24 essentially a part of that piece of work.

25 BY MR. HABER:

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2 Q. Do you recall any discussions with
3 Mr. Coopman prior to Rockford where the subject
4 matter was the requirements under
5 Sarbanes-Oxley?

6 A. I don't recall any particular one
7 on one discussions I had with him before then.

8 MR. HABER: Let's mark.

9 (Pay Exhibit Number 10 was marked
10 for identification.)

11 MR. HABER: For the record, we've
12 marked as Pay Exhibit 10 is a one page series of
13 e-mails being two e-mails. The last of which is
14 from Frank Coopman to John Pay with a cc to
15 Lorin Brass. It's dated January 29, 2003 and
16 the subject line says reserves letter of
17 assurance and there are two Bates numbers on
18 this. The first one is V 00070710 and the
19 second one is DB 04809.

20 THE WITNESS: Yes.

21 BY MR. HABER:

22 Q. Have you seen this e-mail
23 correspondence before today?

24 A. Yes.

25 Q. Okay. If you look at the e-mail

1 JOHN RICHARD PAY
2 which is the last one from Mr. Coopman to you it
3 says, "with all due respect, I think you should
4 first sit down with me and/or Lorin, I'm not
5 just a joker signing the reserves and I want to
6 give my boss completed staff work. If you do
7 not change your approach I will no longer sign
8 off!"

9 Can you tell me the context in
10 which this e-mail was sent?

11 MR. TUTTLE: Objection to the
12 extent it calls for speculation.

13 MR. HABER: It's in response to an
14 e-mail that he sent.

15 MR. TUTTLE: You're asking him why
16 Mr. Coopman sent this e-mail?

17 MR. HABER: If he has an
18 understanding in the context in which it came,
19 yes.

20 THE WITNESS: It's in the context
21 of an e-mail I had written to -- I'm struggling
22 to understand what it is that you would like me
23 to say.

24 I had sent an e-mail to Jan-Willem
25 van der Vijver copying Lorin Brass and Frank

1 JOHN RICHARD PAY

2 Coopman. I believe this was in reply to another
3 e-mail Walter had sent me previously and Frank
4 Coopman, I think, is registering some discomfort
5 with the fact I was communicating directly with
6 Walter without first consulting him or Lorin.

7 BY MR. HABER:

8 Q. Is that what you understood him to
9 mean by I'm not just a joker signing the
10 reserves and I want to give my boss completed
11 staff work?

12 A. I understood that at the time to
13 mean that he was disappointed that I had not
14 discussed my e-mail to Walter with him before
15 sending it.

16 Q. Do you recall having any verbal
17 communication with Mr. Coopman about this
18 subsequent to the e-mail?

19 A. I know that I discussed this with
20 him. I cannot sitting here today remember
21 exactly what was said, but the tone of my
22 discussion was apologetic, I believe.

23 Q. The subject line of your e-mail
24 says reserves letter of assurance?

25 A. Yes.

1 JOHN RICHARD PAY

2 Q. As does the other one. What is a
3 reserves letter of assurance?

4 A. This was a letter signed each year
5 as part of the compilation of the reserve
6 statement for form 20F. It was signed by, in
7 this case it would have been signed by
8 Mr. Coopman, the chief financial officer, and
9 Lorin Brass, the director, with responsibility
10 for preparing those numbers. And it was a
11 letter to, I believe, the external auditors KPMG
12 and PricewaterhouseCoopers to the effect giving
13 their approval of the numbers and/or endorsement
14 of the numbers that had been compiled.

15 Q. Now, the signature that you just
16 talked about, is that a signature on a
17 certification that is included in the 20F?

18 MR. TUTTLE: Objection to form,
19 foundation.

20 THE WITNESS: Are you asking me if
21 that letter itself was reproduced in the 20F?

22 BY MR. HABER:

23 Q. Let me rephrase that. You
24 mentioned in your testimony a moment ago that
25 the letter each year, you say this was a letter

1 JOHN RICHARD PAY
2 signed each year as part of the compilation as
3 part of the reserve statement for the form 20F.
4 And I guess I want to know is that letter
5 included in the 20F?

6 A. No. I intended that to mean the
7 reserves that are included in the 20F are the
8 subject of a letter that is signed.

9 Q. Now, do you know, are you aware of
10 a Sarbanes-Oxley certification being included in
11 the form 20F?

12 A. No.

13 Q. Now, if you look at the e-mail
14 from you to Mr. Van der Vijver, the second
15 paragraph in particular it says, "KPMG have
16 asked us to acknowledge certain areas of
17 potential overstatement of reserves in the
18 letter of assurance that Frank and Lorin will
19 give them."

20 Who did you communicate with at
21 KPMG where this request was made?

22 A. If it wasn't Mr. Van Dalen it
23 would have been one of his assistants.

24 Q. Do you recall when the request was
25 made?

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2 A. No.

3 Q. Do you recall the sum and
4 substance of -- withdrawn.

5 How is that request made?

6 A. I'm struggling to remember
7 precisely the manner in which it was brought to
8 my attention, whether it was a written statement
9 or whether it was verbal. That's the only
10 reason I hesitate, but the matters that I've
11 drawn attention to here were brought to our
12 attention by KPMG as being areas that they
13 stated here felt there may be a potential for
14 overstatement and wished to have some comfort
15 that the letter of assurance, at least
16 acknowledged those areas.

17 Q. Do you recall if the letter of
18 assurance did acknowledge those areas?

19 A. To the best of my recollection, I
20 think it did.

21 Q. Did you prepare the letter of
22 assurance?

23 A. I -- I certainly assisted in its
24 preparation. Whether I was the sole author, I
25 can't remember.

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2 Q. If you look down to the last full
3 bodied paragraph, the one that begins further
4 uncertainties?

5 A. Yes.

6 Q. There is a reference to a volume
7 of cash again reserves. To what does that
8 refer?

9 A. At this time, at the end of 2002
10 we registered reserves for the cash again field,
11 I believe, in a quantity of 380 million barrels.
12 Very late in the process we discovered that
13 there had been a calculation error, an
14 arithmetic can error in the calculation of that
15 figure such that -- -- it wasn't a calculation
16 error, it was a misunderstanding, I think on the
17 part of those preserving the reserves estimates
18 to cash again. We discovered that they had
19 included in that figure of 380 million barrels a
20 figure of 45 million barrels that would have
21 been produced beyond the end of the production
22 license for cash again. The reason for the
23 uncertainty, as I recall, stemmed from there
24 being a lack of clarity on precisely the
25 duration of that production license.

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2 Q. In particular, what was the issue
3 that surrounded this lack of clarity on the
4 duration of the production license?

5 A. As I recall it, it was different
6 interpretations of what the wording of the
7 license actually implied. As I recall it, the
8 duration of the license was clear in terms of
9 number of years. The issue that was not clear
10 from the terms in the license was when that
11 period began. And as we were reviewing this we
12 came to the conclusion that an earlier start
13 date and therefore an earlier end date would be
14 appropriate in reading the license which would
15 mean some of the volume that had been registered
16 and included in all our tabulation and data
17 included that 45 million barrels that would fall
18 outside the license period.

19 Q. And who was taking the contrary
20 position?

21 A. Again, the cash again operating
22 unit who had originally filed the numbers.

23 Q. And who was that?

24 A. I believe my contact in that
25 organization was Zaheer Malik, Z-A-H-E-E-R new

1 JOHN RICHARD PAY

2 word, M-A-L-I-K.

3 Q. Now, was Mr. Malik an employee of
4 Shell?

5 A. Yes.

6 Q. This would then be the operating
7 unit in cash again or Kazakhstan?

8 A. They were not physically located
9 in Kazakhstan, as I recall, and we were not the
10 operator of that field. The team representing
11 Shell's interest was based in The Hague in
12 Rijswijk.

13 Q. Who was the operator of that
14 project?

15 A. I believe it was Agip, A-G-I-P.

16 Q. Had the project reached FID at
17 this time? At this time being January of 2003?

18 A. I understood that it had.

19 Q. Do you know if any reserves that
20 were booked as proved in the cash again project
21 had been restated as part of Rockford?

22 A. I can't recall if they were or
23 not.

24 Q. With regard to the work you had
25 done on Rockford, do you recall reviewing and

1 JOHN RICHARD PAY

2 considering the cash again booking?

3 A. Yes, we did. I'm struggling to
4 recall what the outcome of the Rockford work on
5 -- specific was.

6 Q. Do you recall what the substance
7 of the consideration in the review was?

8 A. I believe the issue was whether in
9 hindsight, in fact, full commitment to
10 proceeding with the project had at that
11 particular time, the end of 2002, been achieved.

12 Q. And what were you looking at with
13 regard to the analysis concerning full
14 commitment to proceeding with the project? What
15 factors were you looking at?

16 A. Internal approvals, approvals of
17 all the partners in the venture. All government
18 approvals and permits required to execute the
19 development. I believe it was subsequently
20 found that there were one or two that were not
21 actually achieved until the year after.

22 Q. You're referring now to government
23 approvals?

24 A. I believe that was the issue.

25 Q. Do you recall having any

1 JOHN RICHARD PAY

2 discussions with Ms. Boynton concerning the
3 issues that were raised by this e-mail, the
4 e-mail now is from you to Mr. Van der Vijver?

5 A. I think I can honestly say I've
6 never had a conversation with Ms. Boynton.

7 Q. Okay.

8 A. Sorry. Correct that.

9 I delivered a report to her as
10 part of project Rockford at a hotel where she
11 was staying and that, as I recall, is the only
12 interaction I had with her.

13 Q. Prior to Rockford you don't recall
14 any interaction?

15 A. Absolutely not.

16 Q. Did Mr. Coopman ever communicate
17 to you the relationship that he had with
18 Ms. Boynton?

19 A. Yes.

20 Q. And do you recall what he said?

21 A. He indicated to me that he did in
22 a professional sense not get along with
23 Ms. Boynton very well and had therefore -- had
24 been previously working, as I understand it,
25 directly for her and had chosen to cease that

1 JOHN RICHARD PAY

2 job and come to work in EP instead.

3 Q. Did he explain to you why in a
4 professional way they had not gotten along?

5 A. Not in detail, no.

6 Q. Do you recall making any
7 presentations to the CMD during your tenure as
8 GRC?

9 A. To the CMD, only in connection
10 with project Rockford during and after
11 December 2003.

12 Q. Prior to project Rockford do you
13 recall being asked to prepare materials in
14 connection with a CMD meeting?

15 A. Yes.

16 Q. And when was that?

17 A. There was one specific occasion
18 on -- I'm just trying to remember.

19 My recollection is that in
20 October 2003 there was -- I believe it was a CMD
21 meeting that took place on the, I think it was
22 the 21st of October, at which Walter, Walter van
23 der Vijver had asked me to prepare some
24 information that he would then present. I was
25 not myself present in that meeting.

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2 Also, I understand that some of
3 the documents that I did prepare during my
4 tenure of which Exhibit 5 would be a type
5 example, that at least some of those documents I
6 understand were made available to the CMD.

7 Q. And what's the basis of your
8 understanding?

9 A. My recollection or the impression
10 I have is that there were notes that were
11 prepared for CMD.

12 Q. Is it possible the meeting that
13 you're referring to in October of 2003 was a
14 meeting to the Group Audit Committee?

15 A. No. That was a separate meeting
16 at which I was present.

17 Q. Okay. Were you invited to attend
18 that meeting?

19 A. Which meeting?

20 Q. I'm sorry, the Group Audit
21 Committee meeting?

22 A. I believe Frank Coopman was
23 invited to attend and he asked me to attend with
24 him.

25 Q. Did you, in fact, attend that

1 JOHN RICHARD PAY

2 meeting?

3 A. Yes.

4 Q. Did you stay for the entire
5 meeting?

6 A. No. I was present only for the
7 topic that Mr. Coopman and I were specifically
8 there to present.

9 Q. And what topic was that?

10 A. The Group Audit Committee I
11 presume through its chairman had asked
12 Mr. Coopman to prepare a -- sorry, strike that.

13 I don't know if Mr. Coopman was
14 asked to prepare or whether he volunteered it,
15 so sorry, strike that.

16 But the two items on the agenda
17 were to provide the Group Audit Committee with
18 feedback, a report on status of the progress
19 in -- that had been made in relation to the
20 group reserves auditors recommendations at the
21 end of 2002 and my mind's gone blank on what the
22 second agenda item was.

23 Q. Do you recall if the second agenda
24 item had to do with the status of the reserve
25 situation in Oman, Gorgon and Nigeria SPDC?

1 JOHN RICHARD PAY

2 MR. TUTTLE: Objection,

3 foundation.

4 BY MR. HABER:

5 Q. You can answer.

6 A. It certainly was not that.

7 Q. Do you recall during the time that
8 you attended the meeting, the GAC meeting, those
9 issues, those particular operating units or
10 projects were discussed?

11 A. No, they were not, to the best of
12 my knowledge.

13 Q. You mentioned auditors
14 recommendations that were made at the end of
15 2002. Do you recall what those recommendations
16 were?

17 A. I'm sorry, it probably seems like
18 I have an atrocious memory. If you have the
19 document available I could refresh my --

20 Q. If I had it I would refresh your
21 recollection. I'm just trying to see what you
22 know.

23 A. There were I think seven
24 recommendations by the reserves auditor as part
25 of his end of year report at the end of 2002. I

1 JOHN RICHARD PAY

2 can't remember specifically what the issues
3 were.

4 Q. Okay. When you were referring to
5 the auditor's recommendations you were referring
6 to the group reserves auditors recommendations?

7 A. Yes.

8 Q. You were not referring then to any
9 recommendations that may have been made by the
10 external auditors?

11 A. No.

12 Q. Okay. And if I understand it
13 correctly, those recommendations that were made
14 by the group reserves auditor, were they also
15 included in his year end report?

16 A. That's where they were documented.

17 Q. Okay. Do you know if the Group
18 Audit Committee acted on those recommendations?

19 MR. TUTTLE: Objection, form,
20 foundation.

21 THE WITNESS: No.

22 BY MR. HABER:

23 Q. During the part of the meeting
24 that you attended did the -- did any member of
25 the Group Audit Committee say that they were

1 JOHN RICHARD PAY
2 favorably supportive of the recommendations that
3 Mr. Barendregt made in his report?

4 A. I don't recall. My recollection
5 of the meeting was that the Group Audit
6 Committee of which this meeting -- meeting of
7 which this was one item on the agenda was that
8 day running late, behind schedule. Mr. Coopman
9 and I were kept waiting for quite a period of
10 time before we were invited in for the subject
11 matter. We had a presentation prepared which
12 had been submitted in advance to the group which
13 we were prepared to present. There had also
14 been a briefing paper that had been submitted I
15 believe some weeks in advance, as well. And
16 when we walked into the meeting the chairman
17 suggested that since they were running late the
18 presentation would be dispensed with and he
19 invited simply a question and answer session
20 from the members of the Group Audit Committee
21 which is then what proceeded. And my
22 recollection is most of that discussion centered
23 around the recommendation that we were making
24 that proved reserves from major projects should
25 be deferred until FID. My recollection is the

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2 Group Audit Committee, two or three of its
3 members spoke, some in favor of the
4 recommendation, some against. Beyond that, I
5 don't recall any substantive discussion.

6 Q. Do you recall who spoke in favor
7 of the recommendation?

8 A. I have no idea who these people
9 were.

10 Q. How many members of the Group
11 Audit Committee were there?

12 A. Present in the room, I would guess
13 maybe 10. 8 to 10, something like that.

14 Q. Who was the Chair of the
15 committee?

16 A. I believe that's Mr. Aad Jacobs
17 or was at the time.

18 Q. I think I asked you about the
19 Group Audit Committee when you talked about the
20 CMD meeting, so let's talk about that meeting.

21 You said that you recall a CMD
22 meeting on October 21, 2003?

23 A. I recall it because it was
24 happening at the same time.

25 Q. Did the CMD meeting precede or

1 JOHN RICHARD PAY

2 follow the Group Audit Committee meeting?

3 A. My recollection is that the two
4 meetings proceeded in parallel, at the same
5 time.

6 Q. Were you invited to attend to make
7 a presentation on a particular issue or issues?

8 MR. TUTTLE: Objection, form.
9 It's inconsistent with his prior testimony.

10 MR. HABER: Okay. I'll rephrase.
11 I'll withdraw.

12 BY MR. HABER:

13 Q. Let me just go back.

14 Did you attend that October 21,
15 2003 CMD meeting?

16 A. No.

17 Q. Okay. Do you recall preparing any
18 materials in connection with that meeting?

19 A. Yes. I recall preparing two or
20 three slides that Walter would present and
21 delivering, hand delivering those slides to
22 Mr. Van der Vijver before the CMD meeting
23 started.

24 Q. And do you recall what the nature
25 of those slides were, what the content of those

1 JOHN RICHARD PAY

2 slides were?

3 A. It was in relation to the latest
4 estimate as it was then for proved reserves
5 additions in 2003.

6 Q. Did that information include
7 information concerning PDO?

8 A. I can't remember.

9 Q. Do you know if that information
10 included information concerning SPDC?

11 A. Yes, it did.

12 Q. What in particular about SPDC was
13 included in the slides?

14 A. Through 2000 -- well, beginning in
15 2002 and proceeding through 2003 there had been
16 a study in progress, which I referred to
17 previously in my testimony as the Kluesner
18 study, which was an attempt to gain a deeper
19 understanding of the reserves disposition in
20 Nigeria SPDC. Through 2003 -- from earlier in
21 2003, typically quarter one, quarter two, the
22 information, the preliminary information that
23 had come from that study was that areas had been
24 identified in the proved reserves balance of
25 SPDC that were not complying with the SEC rules.

1 JOHN RICHARD PAY

2 This suggested that those particular volumes may
3 well need to be debooked at the next report end
4 of year report which is at the end of 2003.

5 However, the information that also
6 accompanied that preliminary information
7 concerning noncompliant reserves. At the same
8 time the study team was reporting that they
9 believed that they had identified several areas
10 where reserves could have been booked but had
11 not been. Therefore, the perception was that
12 whilst some debookings would need to be made at
13 the end of 2003, also some new bookings could be
14 made to other properties and fields. Through
15 2003, the majority up to that point in October I
16 in my role had formed the view that while some
17 debookings would be necessary they would be
18 counteracted by some bookings and there would be
19 a -- there may be a net -- negative revision,
20 but I think through much of the year I was
21 thinking that would be -- according to the
22 information I had available to me, I had the
23 impression that would be on the order of
24 200 million barrels negative revision.

25 I believe as part of the

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2 information I gave on SPDC in the presentation
3 to which you're referring, I was at that stage
4 beginning to contemplate that the volume might
5 be bigger than 200, although I had no clear
6 evidence for that at that time. Such evidence
7 came on November 14th, some three, four weeks
8 later, but I indicated in that slide that the
9 volume to be debooked may be bigger than
10 200 million barrels, although we didn't know
11 precisely how much at that stage.

12 Q. What happened on November 14th?

13 A. My recollection is that on
14 November 14th we received a report or a
15 communication from Nigeria from the studies team
16 which indicated that whilst previously they had
17 been of the opinion that there would be these
18 positive bookings possible to offset the
19 debookings, that that was no longer the case
20 and, in fact, there were no or very limited
21 opportunities to add reserves to the inventory
22 on the basis of the work they had done.

23 Q. Do you recall any other findings
24 of -- that were made and that were related to
25 you on November 14th?

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2 A. From that particular study?

3 Q. Yes.

4 A. Not -- not specifically, no.

5 Q. Okay. Since we're on it --

6 (Pay Exhibit Number 11 was marked
7 for identification.)

8 BY MR. HABER:

9 Q. I'm going to hand you what we just
10 marked as Pay Exhibit 11. While Mr. Pay is
11 looking at the document I'm going to identify it
12 for the record. It's a series of e-mails with
13 an attachment. The last of the e-mails is from
14 John Hoppe, H-O-P-P-E, dated February 5, 2003.
15 It's to Mr. Pay with a cc to Anton Barendregt,
16 Phil Davis, Ojo Sanni, Mark Corner, Guy Cowen
17 and Promise Egele.

18 The subject line reads SPDC
19 forecast constrain reserve estimates versus
20 business plan. There are two Bates ranges
21 identified in the document. The first one is V
22 00130581 through V 00130589 and the second one
23 is Corner, C-O-R-N-E-R, 00579 through Corner
24 00587.

25 A. I haven't read through it fully

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2 now, but I'm reminded of the issue.

3 Q. I have a few questions about the
4 exhibit. We've been talking about this Kluesner
5 team and I think this document precedes the
6 team, but it does sort of talk about the issues
7 with SPDC that we've been talking about
8 yesterday and today so I want to ask you a
9 couple of questions, almost as sort of a
10 starting point.

11 With regard to the e-mail from
12 Mr. Hoppe to you and it's -- I want you to look
13 at the third paragraph, the one that begins
14 Anton's statement and in particular towards the
15 bottom of that paragraph, although certainly you
16 can look at the paragraph to refresh your
17 recollection, but I'm interested in what of sort
18 of ends the paragraph, the sentence that begins,
19 "there remains scope for debate over whether or
20 not the levels of technical maturity of some of
21 the projects are adequate for them to be counted
22 as proved reserves and further work is desirable
23 to the extent which expectation forecasts need
24 to be discounted to support group undeveloped
25 volumes."

1 JOHN RICHARD PAY

2 Do you recall what the debate was
3 at this time that's being referred to?

4 A. I'm not aware of an actual debate
5 going on. If you're drawing attention to this
6 specific word on the page.

7 Q. Was there an effort to look at the
8 technical maturity of some of the projects at
9 SPDC at or about this time?

10 A. That's what I understood the
11 Kluesner project to be doing.

12 Q. And why was there an emphasis on
13 looking at the technical maturity of some of the
14 projects at SPDC?

15 A. Well, my understanding that that
16 was a key part of the study conducted by
17 Mr. Kluesner and his team was to review the full
18 scope of not only proved reserves, but all
19 categories of reserves and scope recovery
20 efforts and to, shall we say investigate the
21 degree of maturity, the firmness of each of the
22 projects underpinning the volumes that we had in
23 the inventory for Nigeria.

24 Q. Now, prior to this time had such a
25 study or analysis been conducted at SPDC?

1 JOHN RICHARD PAY

2 A. I don't know if it had or not.

3 Q. In the about nine months or so in
4 your position as group reserves coordinator had
5 you directed anyone to conduct such an analysis
6 or study?

7 MR. TUTTLE: I'm sorry, other than
8 the Kluesner study?

9 BY MR. HABER:

10 Q. Yes. Other than the Kluesner
11 study, yes?

12 A. No.

13 Q. Who initiated the Kluesner study?

14 A. That I can't remember. I'm pretty
15 sure I didn't initiate it. Precisely how I came
16 to hear that it was planned, also I can't
17 recall, but I know that I was very supportive of
18 it in terms of -- that it would be a good step
19 in underpinning the audit trail, as we referred
20 to it yesterday, for the Nigeria inventory.

21 Q. Do you know if Mr. Barendregt had
22 audited SPDC before February 2003?

23 A. I believe his previous audit was
24 some years before, some time before 2003.

25 Q. Do you know when?

1 JOHN RICHARD PAY

2 A. I think it was 1999 and another
3 audit was due in 2003.

4 Q. Did you ever form an opinion of
5 whether it was appropriate to have such a long
6 period of time between audits by the group
7 reserves auditor?

8 MR. TUTTLE: Objection to form.

9 THE WITNESS: Prior to project
10 Rockford since that was the established practice
11 I did not object or -- I didn't form any other
12 opinion to it other than being supportive of it
13 as a business control.

14 BY MR. HABER:

15 Q. So you never questioned whether it
16 was appropriate to space out the audits or have
17 them more frequent?

18 MR. TUTTLE: Objection to form.

19 THE WITNESS: No, I don't think
20 so.

21 BY MR. HABER:

22 Q. Looking again at Exhibit 11. If
23 you look at the second page of the document --
24 by the way, who is Ojo Sanni, if I'm pronouncing
25 that correctly?

1 JOHN RICHARD PAY

2 A. Yes. At the time he was my
3 contact point, my focal point for reserves
4 matters in SPDC.

5 Q. If you could just take a look for
6 a moment on the first page at his reference
7 indicator. What is the D-P-E-N-R-E-S stand for,
8 if you know?

9 A. I don't know.

10 Q. Looking at the second page now.
11 The first paragraph of the e-mail from you to
12 Mr. Sanni, which is dated January 20, 2003, you
13 say, "a couple weeks ago we asked SPDC to
14 provide additional information on the
15 relationship between proved reserves,
16 expectation reserves and the business plan
17 forecast. So far this information has not been
18 forthcoming."

19 During your time as GRC did you
20 find that SPDC was not responsive to requests
21 for information?

22 MR. TUTTLE: Objection.

23 MR. HABER: You can answer.

24 THE WITNESS: My experience it was
25 generally difficult to get questions of this

1 JOHN RICHARD PAY

2 nature answered.

3 BY MR. HABER:

4 Q. Did you ever talk with any of your
5 predecessors to see if they had similar
6 experiences in obtaining information?

7 A. No, I don't recall such
8 discussions.

9 Q. Why did you seek this information
10 from SPDC?

11 A. It was in -- may I just take some
12 time?

13 Q. Please.

14 A. Mr. Barendregt had relayed an
15 e-mail to me, sent an e-mail to me on the 7th of
16 January which is in this pack in which he is
17 suggesting that I require of three OUs,
18 operating units, information on the relationship
19 between the reserves that are booked and the
20 production forecast for those companies. And
21 my -- that is the context in which this e-mail
22 discussion is occurring.

23 Q. Do you have an understanding of
24 why Mr. Barendregt needed the information that
25 he requests in that e-mail?

1 JOHN RICHARD PAY

2 A. What my understanding was is that
3 it was as part of his procedures to verify the
4 reports of the individual OUs concerned at the
5 end of 2002.

6 Q. So this was in connection with his
7 function in the ARPR process that we had
8 discussed yesterday?

9 A. Correct.

10 Q. Now, if you look down at the next
11 e-mail, which is dated January 7, 2003, from you
12 to Mr. Sanni with a cc to Mr. Barendregt,
13 looking at the second paragraph it says, "whilst
14 the issue of 2019 license expiry has largely
15 been resolved now, we still need to be able to
16 check the consistency of SPDC's proved reserves
17 and projection profiles against the approved
18 corporate business plan in view of the
19 continuing influence of OPEC quota and
20 constraints."

21 What were you referring to with
22 regard to the influence of OPEC quota
23 constraints?

24 A. Well, Nigeria is a member of OPEC
25 and as such is subject to OPEC production quotas

1 JOHN RICHARD PAY

2 and therefore by being situated in Nigeria so is
3 SPDC. There is only a share of the production
4 that is available to the various companies
5 operating that. In aggregates they can only
6 produce up to the quota that's been assigned to
7 Nigeria.

8 Now, in order to produce the
9 proved reserves that SPDC had registered before
10 the 2019 license expiry, SPDC would have had to
11 significantly increase their production rate.
12 The business plan showed this is what they
13 expected to do and I had previously inquired and
14 I think previously mentioned that I made some
15 inquiries with them in relation to the
16 production gross that they expected and it's the
17 degree of certainty they had over whether it
18 would actually occur. And also I had made
19 inquiries as to whether it would be possible for
20 that production growth to occur given that the
21 country and therefore SPDC itself would be
22 subject to quotas. The answer I had received
23 from them from SPDC on that issue was that the
24 production growth included or took cognizance of
25 the effect of the OPEC quota, so it was not an

1 JOHN RICHARD PAY

2 unconstrained growth, it acknowledged a plan
3 that would still adhere to the OPEC quota.

4 So that had allayed my questions
5 that I had over the quota constraints, but still
6 it's a significant item -- it's a significant
7 element of the business in Nigeria and therefore
8 I wished to see that SPDC could produce a
9 production forecast which address both the
10 proved reserves they had on their books and the
11 expectation reserves which generally is a higher
12 figure, taking into account whatever influence
13 of OPEC constraints there would be.

14 Q. Now, did you form an opinion of
15 whether SPDC could attain the production
16 forecasts that it had included in its business
17 plan?

18 MR. TUTTLE: Ever -- is there a
19 time period.

20 BY MR. HABER:

21 Q. During this time period?

22 MR. TUTTLE: He covers two years
23 or two different business plans.

24 MR. HABER: We're talking right
25 now in January 2003.

1 JOHN RICHARD PAY

2 MR. TUTTLE: Okay.

3 THE WITNESS: The business plan
4 current would be the one prepared in 2002, which
5 is --

6 BY MR. HABER:

7 Q. Correct.

8 A. The one that I had asked questions
9 of SPDC about?

10 Q. That's correct.

11 A. It's not my place to approve or
12 disapprove their business plan, but the
13 questions I asked of SPDC in relation to the
14 production growth contained in that business
15 plan was such the answers clearly indicated to
16 me the people working in SPDC clearly believed
17 and stood by their business plan and quoted
18 specific projects which they stated would
19 contribute to the production growth.

20 Q. I'm not asking what they believed,
21 I'm asking what you believed. Did you believe
22 what they were telling you was attainable?

23 A. Based on the information I had
24 available, I had no reason to doubt what they
25 were saying.

1 JOHN RICHARD PAY

2 Q. Well, among the pieces of
3 information that was available to you, had you
4 ever seen historical data showing SPDC's annual
5 production?

6 MR. TUTTLE: Objection,
7 argumentative. Excuse me.

8 THE WITNESS: Yes.

9 BY MR. HABER:

10 Q. Yes?

11 A. Yes, I had.

12 Q. Okay. And did that data also show
13 SPDC's production, actual production against
14 forecasts?

15 A. Yes. They had a history of
16 showing in their business plans growth and
17 production which had not materialized.
18 Therefore, I was skeptical when the next
19 business plan continues to show that which is
20 why I asked the questions. However, in view of
21 the responses to those questions it is true to
22 say I still remained a little skeptical but less
23 skeptical than I had been before I asked the
24 questions.

25 Q. Do you know if one of the items

1 JOHN RICHARD PAY

2 that the Kluesner team was to look at was the
3 ability of SPDC to attain the production targets
4 in the business plan?

5 A. I'm not today aware of that being
6 on their terms of reference.

7 Q. Other than the Kluesner team, do
8 you know if there was any other study conducted
9 by anyone within Shell to determine -- let me
10 rephrase that.

11 Other than the Kluesner study team
12 and other than SPDC, do you know if there was
13 any study conducted by anyone within Shell to
14 determine whether the production forecasts in
15 SPDC's business plan were attainable?

16 A. I'm not aware of any such study
17 nor would I imagine anyone outside SPDC would be
18 capable of doing such a study in the required
19 level of detail.

20 Q. Did you ever ask for such a study?

21 A. Not that I recall.

22 MR. TUTTLE: Objection.

23 BY MR. HABER:

24 Q. Do you recall what the production
25 growth rate that was targeted in SPDC's business

1 JOHN RICHARD PAY

2 plan was?

3 A. In terms of barrels per day?

4 Q. Yes.

5 A. Actually, no. I know the shape of
6 the picture, but I can't remember specifically
7 the numbers on it.

8 Q. How about in terms of percentage?
9 Do you know what percentage growth rate SPDC was
10 forecasting?

11 A. Well, by growth rate, you mean the
12 change in production level that would be
13 required?

14 Q. Yes.

15 A. I believe it was -- I believe it
16 was 70 percent. That's the figure I have.

17 Q. 70 or 17?

18 A. 70, compared with the 2001
19 production rate.

20 Q. Looking at the exhibit, again 11,
21 I think we're on. Yeah, Exhibit 11. The
22 paragraph that I --

23 A. The picture is here, actually.

24 Q. Oh, it is. All right. When you
25 say the picture, are you referring to the graph

1 JOHN RICHARD PAY

2 on page 130585?

3 A. Yes.

4 Q. And what does this show?

5 A. This is -- this is showing the
6 historical production rate of oil in SPDC from
7 1990 to 2000 and the forecast of production for
8 years thereafter until 2019, which at the time
9 was considered to be -- well, the license expiry
10 date of the license is concerned.

11 Q. And the historical, the 1990
12 through 2000, shows that production is less than
13 what's being forecasted. Am I reading that
14 correctly?

15 A. Yes.

16 Q. This part of the e-mail chain
17 which reads recent history of proved reserves
18 booking, do you know who prepared this document?

19 A. No, I don't.

20 Q. Who is Mark Corner?

21 A. At the time I understood him to be
22 the supervisor of Mr. Hoppe.

23 Q. Now, on page 130582, which is the
24 second page of the document, the first part of
25 the paragraph that we were talking about talks

1 JOHN RICHARD PAY

2 about the issue of 2019 license expiry being
3 largely resolved?

4 A. Yes.

5 Q. What does that refer to?

6 A. Well, the graph we were just
7 looking at a minute ago helps to illustrate the
8 amount by which production rates in SPDC would
9 need to increase if the proved reserves that
10 they had on the books would be produced before
11 the license expiry in 2019. In view of the fact
12 that production in previous years had not grown,
13 this was raising concerns that it might not, as
14 we've been discussing, be possible for SPDC to
15 produce those volumes before 2019. The reason
16 2019 was seen as a significant date was that the
17 licenses, production licenses on shore expire in
18 that year and my recollection is that there had
19 been the perception it would not be possible to
20 consider any production that SPDC might make
21 beyond that date as qualifying for proved
22 reserves since there would be no production
23 license.

24 However, towards the end of 2002,
25 I or primarily -- I think it's another

1 JOHN RICHARD PAY

2 Mr. Klusener actually.

3 Q. Kluesner?

4 A. Klusener, legal -- working in the
5 legal department in SPDC itself, together with
6 him investigated whether or not 2019 was
7 generally a constraint given the SEC rules, the
8 way I understood them at the time, would allow
9 for the extension of licenses where it was
10 certain that such licenses could be -- would be
11 extended with reference to past practice, et
12 cetera.

13 I believe Mr. Klusener
14 commissioned a study from SPDC's own external
15 legal counsel which gave an opinion on the
16 matter that was quite strongly in favor of SPDC,
17 in fact, having a right that could be exercised
18 under Nigerian law to extend the licenses and
19 therefore 2019 in itself actually was not a
20 constraint on the forward time frame over which
21 Nigeria could consider its production profile
22 and reserves estimate.

23 Q. Now --

24 A. Sorry. This is what is meant by
25 the issue is resolved.

1 JOHN RICHARD PAY

2 Q. In connection with the analysis,
3 the legal analysis of the license expiry issue,
4 do you recall outside counsel in the United
5 States being contacted?

6 A. I can't recall whether or not they
7 were.

8 Q. Do you recall hearing the name of
9 a law firm by the name of Cravath Swaine &
10 Moore?

11 A. I'm aware of that name. I've
12 heard it, yes.

13 Q. Do you recall hearing it in
14 connection with the license expiry issue you've
15 just discussed?

16 MR. TUTTLE: Objection,
17 foundation.

18 THE WITNESS: I'm not 100 percent
19 certain, but it may be that somebody had made
20 the suggestion to -- I don't know. Possibly.

21 BY MR. HABER:

22 Q. Do you know who Bud Rogers is?

23 A. I came to know Bud Rogers only in
24 connection with project Rockford.

25 Q. Do you know who a Rory Milson is?

1 JOHN RICHARD PAY

2 A. Never heard of him.

3 MR. TUTTLE: Is this a good time
4 to take a break?

5 MR. HABER: Okay.

6 THE VIDEOGRAPHER: We are going
7 off the record. The time is 2:28 p.m.

8 (A brief recess was taken.)

9 THE VIDEOGRAPHER: We're back on
10 the record. The time is 2:51 p.m.

11 (Pay Exhibit Number 12 was marked
12 for identification.)

13 BY MR. HABER:

14 Q. During the break we marked as
15 three exhibits, documents relating to the SPDC
16 license expiry issue. The first exhibit which
17 has been marked as Pay Exhibit 12 is a series of
18 e-mails with an attachment, the last of which is
19 from Steve Ratcliffe dated January 8th, 2003 to
20 Mark Corner. The subject is reserves. The
21 Bates number, and there are two of them, is V
22 00130033 through V 00130039 and the other Bates
23 number is Corner 00032 through Corner 00038.

24 (Pay Exhibit Number 13 was marked
25 for identification.)

1 JOHN RICHARD PAY

2 BY MR. HABER:

3 We marked as Pay Exhibit 13 an
4 e-mail with an attachment. This e-mail is from
5 Johannes Van Poppel to William Rogers, the date
6 is February 3, 2003, and there's a cc to Peter
7 Folmer and the subject line reads urgent advice
8 requested on SEC regulations. The Bates number
9 for this document and attachment is LON 01540333
10 through LON 01540337.

11 (Pay Exhibit Number 14 was marked
12 for identification.)

13 BY MR. HABER:

14 The final document that we marked
15 as an exhibit is Pay Exhibit 14 which is in an
16 e-mail that attaches three documents. The
17 e-mail is from Mr. Pay, it's dated February 4,
18 2003, it's to Andrew Hooks Klusener with a cc to
19 Phil Davis and Malcolm Harper. The subject line
20 reads Nigeria oil/mining leases. Again, there
21 are two Bates ranges on this document. The
22 first is V 00372200 through V 00372210 and
23 Harper 0120 through Harper 0130.

24 My first question to you, if
25 you've had an opportunity to look at these

1 JOHN RICHARD PAY

2 documents?

3 A. Not in detail, but I've browsed
4 through them.

5 Q. Have you seen prior to today the
6 documents that we've just marked as Exhibit 12,
7 13, and 14?

8 MR. TUTTLE: Can we take them one
9 at a time?

10 MR. HABER: We can.

11 BY MR. HABER:

12 Q. Have you seen what we've marked as
13 Pay Exhibit 12 before today?

14 A. I'm not sure that I've seen it in
15 total. Much of it is an e-mail chain in which
16 I'm not copied, although I do have a -- there is
17 an e-mail from me included within it,
18 apparently.

19 Q. You notice that you're included on
20 the ccs beginning on the second -- I'm sorry, on
21 the first page of the exhibit, the e-mail from
22 Mr. Klusener to Mr. Ratcliffe?

23 A. Yeah.

24 Q. While we're looking at this
25 document, if you look at the second page of the

1 JOHN RICHARD PAY

2 e-mail it says 2 of 3 in the upper right-hand
3 corner, this is an e-mail from Mr. Klusener to
4 Guy Cowan or G. Cowan. Who is Mr. Cowan?

5 A. I'm not sure I know.

6 Q. Who is Ron Van Den Berg?

7 A. Well, his reference indicator
8 tells me he was the managing director of SPDC at
9 the time.

10 Q. Had you ever had any interaction
11 with Mr. Van Den Berg while you were group
12 reserves coordinator, prior to December 2002?

13 A. Not that I recall.

14 Q. If you look at the e-mail it says,
15 "John Pay is going to run this through the
16 reserves auditors before year end but they have
17 been kept on board all along, as I understand
18 it."

19 Do you have an understanding of
20 what reference Mr. Klusener is making here?

21 A. Does it not speak for itself?

22 There's correspondence here
23 relating to the expiry of licenses in Nigeria
24 and this is a statement that I'm going to seek
25 guidance, so check with the reserves auditors on

1 JOHN RICHARD PAY

2 the issue.

3 Q. Just so you understand, it was the
4 word this. I wanted to make sure I knew what
5 the word this referred to?

6 A. Okay.

7 MR. FERRARA: I'm sorry. I lost
8 the question.

9 MR. HABER: He mentioned generally
10 I thought the reference was to the SEC defense
11 letter. What I'm trying to understand what his
12 understanding was at the time.

13 MR. FERRARA: What page of the
14 document?

15 MR. HABER: This on page 2 of 3,
16 if you look in the right-hand corner. It says,
17 "John Pay is going to run this through the
18 reserves auditors."

19 THE WITNESS: Yes, the
20 correspondence appears to be in relation to the
21 so-called SEC defense letter, which I can
22 explain in more detail if you wish, but the
23 attachment to this package does not seem to be
24 that defense letter and I'm not -- it refers to
25 license extensions. I'm not sure the attachment

1 JOHN RICHARD PAY

2 is actually what is referred to in the e-mail.

3 BY MR. HABER:

4 Q. If you look at the next page, 3 of
5 3 in the upper left -- withdrawn. Sorry.

6 If you look at the next page
7 though, page 3 of 3, does this look like a draft
8 of a defense letter?

9 MR. TUTTLE: The text that's on 3
10 of 3?

11 MR. HABER: It says, "since 1999
12 the group has imposed," et cetera.

13 MR. TUTTLE: You can asked him if
14 that looks like the SEC defense letter?

15 THE WITNESS: No, it doesn't. The
16 SEC defense letter would appear to have been an
17 attachment to this original e-mail and this
18 suggested text for a cover note, I think, to
19 SPDC management.

20 BY MR. HABER:

21 Q. Now, you had mentioned in a prior
22 answer that you could explain the SEC defense
23 letter in more detail, and I would like you to
24 do that if you can?

25 A. The SEC defense letter is a typed