

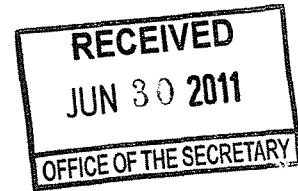
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Attorneys for G. Brent Pierce



**UNITED STATES OF AMERICA  
Before The  
SECURITIES AND EXCHANGE COMMISSION**

**Administrative Proceeding  
File No. 3-13927**

**In the Matter of** )  
)  
)  
)  
**GORDON BRENT PIERCE,** )  
**NEWPORT CAPITAL CORP., AND** )  
**JENIROB COMPANY LTD.,** )  
)  
)  
**Respondents.** )

**RESPONDENT PIERCE'S POST-ORAL  
ARGUMENT BRIEF IN SUPPORT OF  
HIS MOTION FOR SUMMARY  
DISPOSITION AND IN OPPOSITION TO  
THE DIVISION'S MOTION FOR  
SUMMARY DISPOSITION**

Respondent G. Brent Pierce submits this post-oral argument brief and the attached Supplemental Declaration of Christopher B. Wells as provided by the Hearing Officer's order of June 8, 2011. We address the following five issues:

1. The Hearing Officer invited the parties to submit the objections made by Pierce to production of Liechtenstein bank statements and other offshore records protected by foreign privacy laws. We submit and discuss both the written objections made by Pierce's counsel to the Division's subpoena and the objections made on the record of his investigative testimony. The objections make clear that Pierce wasn't concealing anything but was instead, through his counsel, being entirely transparent about his objections and giving the Division every opportunity to challenge them if it believed them ill-founded.

2. The Division's suggestion that Pierce should have moved to quash the subpoena lacks any legal support. The SEC's own notice to recipients of subpoenas establishes that, as required by the courts, the Division was required to seek a court order enforcing the subpoena if it wished to challenge Pierce's objections.

3. The Division's delay in pursuing production of Liechtenstein bank records further undermines its claim that concealment by Pierce prevented it from obtaining timely access to those records.

4. The Division's concession at oral argument that it did not claim Pierce had an ownership interest in Newport or Jenirob undermines its claim of collateral estoppel and, in the absence of evidence that Pierce personally obtained any of the profits from Lexington sales by Newport and Jenirob, further debilitates its claim for additional disgorgement by Pierce.

5. The Division's arguments regarding Section 5 only confirm the necessity of barring this duplicative litigation as required by res judicata.

**A. PIERCE'S OBJECTIONS TO THE PRODUCTION OF DOCUMENTS HIS COUNSEL VIEWED AS SUBJECT TO PRIVACY CONCERNS UNDER FOREIGN LAW WERE CLEARLY ARTICULATED AND GAVE THE DIVISION EVERY OPPORTUNITY TO CHALLENGE THEM**

As noted in its exhibit submitted at oral argument, the Division sought voluntary production of documents from Pierce in October 2005, five months after the Commission issued its May 2005 order directing private investigation into trading in Lexington stock. It didn't follow up with a subpoena to Pierce until seven months later, in May 2006 (Wells Supp. Ex. A).<sup>1</sup> Request no. 4 in the subpoena attachment sought production of "All statements from securities brokerage accounts in YOUR name, in which YOU have a beneficial interest or exercise discretionary control, or in whose profits and/or losses YOU share" (*Id.*).

Pierce's counsel transmitted documents to the Division in response to the subpoena in July 2006, along with a cover letter and a category-by-category list of objections and description of the documents being produced (Wells Supp. Ex. B). In response to Request no. 4, Pierce's counsel stated:

Objection as to brokerage account statements of entities that have authorized discretionary trading of Lexington stock but have not authorized Mr. Pierce to produce their records. (Mr. Pierce is producing a new Schedule 13D report of the trading in Lexington Stock by persons/entities described in this request.) Piper Jaffray brokerage statements for Mr. Pierce have been produced. Mr. Pierce is producing records of an offshore account reflecting the remainder of his personal Lexington stock trades. *See* BP 00244-418.

Pierce's objection to producing account statements for entities that had not authorized him to disclose them put the Division on unambiguous notice of his concern. When Pierce provided investigative testimony later that month in response to the subpoena, his counsel further articulated their objections each time the Division's two examining lawyers asked about matters

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<sup>1</sup> "Wells Supp. Ex. \_\_\_" refers to exhibits attached to the accompanying supplemental declaration of Christopher B. Wells. "Wells Ex. \_\_\_" refers to exhibits attached to the Wells Declaration submitted on March 17, 2011 in support of Pierce's motion for summary disposition.

that Pierce’s counsel believed could infringe on the privacy rights of offshore entities and the protections accorded them by foreign laws. The extensive colloquy among counsel about these concerns provided the Division with a detailed roadmap as to what Pierce’s counsel believed he could disclose and what the Division would need to pursue further if it wished to compel disclosure. The following “page:line” excerpts from the transcript (Wells Supp. Ex. C) are illustrative:

<u>Begin</u>	<u>End</u>
24:1	26:16
28:1	29:21
38:22	40:4
41:17	47:4
48:5	49:1
56:10	57:1
179:3	182:3
184:3	184:25
197:8	200:7
285:16	308:20
310:21	311:4

Notwithstanding these objections, however, Pierce candidly provided sufficient testimony to facilitate any efforts the Division might view as appropriate if it took issue with the objections, and in some cases that testimony led to immediate resolution of the concerns. For example, Pierce testified that he was an officer and director of Newport Capital and identified the other officers and directors (Wells Supp. Ex. C at 21:11-23:3).<sup>2</sup> He subsequently testified that he had no direct or indirect ownership stake in Newport (*Id.* at 197:8-13, 303:23-304:5). While initially

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<sup>2</sup> Pierce also disclosed the other companies, whether domestic or foreign, of which he was an officer or director (Wells Supp. Ex. C at 35:9-37:7).

declining to disclose who owned Newport (*id.* at 197:14-17), Pierce then, following colloquy among counsel, identified the owner of Newport as Emerald Trust (*Id.* at 197:18-200:11).

Pierce also made clear that he in fact had knowledge on subjects about which his counsel objected to his providing that information. For example, Pierce said he knew the information he wasn't permitted to give about entities domiciled in foreign jurisdictions (Wells Supp. Ex. C at 302:8-12), and he knew who were the beneficial owners of Emerald Trust (*Id.* at 301:16-302:6). Had the Division wished to pursue these questions, it could have readily done so knowing that Pierce had the answers.

The Division also obtained from Pierce sufficient information about Newport and Jenirob transactions in Lexington stock that it could have further pursued those transactions in the First Proceeding. Beyond the documentary evidence detailed in Pierce's earlier briefs, the Division had Pierce's candid testimony that both Newport and Jenirob had accounts at Hypo Bank (Wells Supp. Ex. C at 395:1-23); that Phil Mast at Hypo Bank was doing transactions for Newport and Jenirob in those accounts (*id.* at 394:2-395:12); and that Pierce directed open market transactions for Newport in its account at vFinance (*Id.* at 214:4-216:20).<sup>3</sup>

In addition, Pierce gave clear testimony on which the Division failed to follow up. For example, he testified that he had authorization to conduct Lexington transactions in accounts for corporations, but he was never asked to identify them (Wells Supp. Ex. C at 48:15-21).

The combination of Pierce's undisputed testimony and objections by his counsel gave the Division a clear roadmap if it wished to challenge those objections. As we show below, the Division cannot twist its failure to do so into a claim that Pierce concealed the evidence the Division itself failed to pursue.

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<sup>3</sup> The Division again at oral argument noted Pierce's testimony that he had no interest in Jenirob's account at Hypo Bank (Wells Supp. Ex. C at 396:1-5), but it has never offered any evidence that would cast doubt on that testimony.

**B. THE DIVISION WAS OBLIGATED TO SEEK ENFORCEMENT OF ITS SUBPOENA IN DISTRICT COURT IF IT DID NOT ACCEPT PIERCE'S OBJECTIONS**

The Division has sought to bolster its claim that Pierce “concealed” the evidence to which his counsel objected by arguing that Pierce should have moved to quash the Division’s subpoena rather than submitting objections. But there is no basis for that contention. The Division’s own procedures, as well as relevant case law, establish that, if the Division believed Pierce’s objections lacked merit, it should have sought to compel production of the requested documents by filing an action in federal district court to enforce the subpoena.

For starters, the court in *Fleet/Northstar Fin. Group, Inc. v. SEC*, 769 F. Supp. 19, 20 (D. Maine 1991), held that a respondent in an SEC enforcement action cannot file an action seeking to quash an SEC subpoena seeking production of documents to which the respondent objects, since the exclusive forum for adjudicating those objections is an action brought by the SEC in federal court to enforce the subpoena. *See also, Reisman v. Caplin*, 375 U.S. 440, 445-46 (1964) (same in context of IRS subpoena); *Atlantic Richfield Co. v. FTC*, 546 F.2d 646, 648-50 (5<sup>th</sup> Cir. 1977) (same in context of FTC subpoena).<sup>4</sup>

The teaching of the cases is acknowledged in the SEC’s own Form 1662 that is required to accompany its subpoenas and that was provided to Pierce here (Wells Supp. Ex. A). Section F of the form regarding the “effect of not supplying information” on “persons directed to supply information pursuant to subpoena” provides that “If you fail to comply with the subpoena, the Commission may seek a court order requiring you to do so.” Both the case law and the SEC’s own procedures required the Division to seek a court order enforcing its subpoena if it wished to

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<sup>4</sup> While Rule 232 of the Rules of Practice provides that a Hearing Officer may quash a subpoena issued in connection with a hearing ordered by the Commission, there is no comparable administrative remedy provided in the case of an investigatory subpoena.

contest Pierce's objections to providing either documents or testimony. Its failure to do so is fatal to its argument that Pierce "concealed" the information to which his counsel objected.

**C. THE DIVISION'S OWN DELAYS UNDERMINE ITS CLAIM OF CONCEALMENT**

At oral argument, the Division presented a demonstrative exhibit purporting to depict a timeline of events in the First Proceeding. While accurate as far as it went, the exhibit's most notable feature was its omission of events that establish the Division's own delay in pursuing the documents it contends Pierce concealed.

As the Division noted, it requested documents from Pierce informally in October 2005. Failing to obtain the documents it now claims were concealed, the Division delayed for over half a year until May 2006 before issuing a subpoena. After Pierce objected to production of documents regarding offshore accounts in July 2006, the Division delayed for another three months until October 2006 before first seeking them from the FMA in Liechtenstein.

As shown in the Division's own exhibit, it did not follow up with a second request to the FMA until at least 15 months later in January 2008.<sup>5</sup> It has never sought to explain the year of delay that elapsed between the February 2007 change in Liechtenstein law permitting the FMA to obtain records from Hypo Bank and the Division's belated request to the FMA that it obtain them for the Division's use in the First Proceeding. That year of delay is particularly inexplicable in light of the fact that the SEC did not issue the First OIP until July 2008, a year and a half after the change in Liechtenstein law that gave the Division every opportunity to seek the records it now claims were "concealed."

Coupled with its failure to take any action to compel production of the documents from Pierce himself in a timely manner – or at all – the Division has only its own delays to blame for

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<sup>5</sup> The Division does not explain the discrepancy between the January 2008 date on its exhibit and its representation at oral argument that the second request was in February 2008 (TR at 12:21-22).

not receiving the documents until January 2009.

The Division also contended at oral argument that it could not have asserted in the First OIP that Lexington shares were sold through Hypo Bank accounts maintained by Newport and Jenirob because it didn't know about those accounts until it received the "new evidence" from the FMA in 2009. But Pierce's investigative testimony in fact candidly acknowledged those accounts. Not only did Pierce honestly testify that Phil Mast was doing transactions in those accounts at Hypo Bank (Wells Supp. Ex. C at 395:1-12), but he also said he knew who had an interest in those accounts (*Id.* at 396:1-12). When he respectfully declined to provide that information on privacy grounds (*id.*) – a concern the Division acknowledged it understood (*id.* at 294:21-25) – the Division could and should have sought to compel both that testimony and the relevant records if it believed they were relevant and properly sought.<sup>6</sup>

Indeed, the Division itself urged on the record of Pierce's July 2006 testimony that "we just can't wait indefinitely. We have to pursue whatever means we need to to get the information" (*Id.* at 288:16-17). But in truth the Division *did* wait indefinitely and *did not* pursue the means readily available to it to get the allegedly concealed evidence. As noted in Pierce's earlier briefs, that delay entirely undermines the Division's claim of concealment.

**D. THE ABSENCE OF EVIDENCE THAT PIERCE HAD ANY OWNERSHIP INTEREST IN NEWPORT OR JENIROB OR RECEIVED ANY PROFITS FROM EITHER COMPANY'S SALES OF LEXINGTON STOCK UNDERMINES THE DIVISION'S CLAIM OF COLLATERAL ESTOPPEL AND ITS REQUEST FOR DISGORGEMENT OF THOSE PROFITS BY PIERCE**

Prior to the June 8, 2011 oral argument, the Division had steadfastly maintained that Pierce was the owner, or at least the beneficial owner, of Newport and Jenirob. At the hearing, however, it backtracked and acknowledged that "we are not alleging that" and that Judge Foelak in her Initial Decision "may not have been correct" in finding that Pierce was the beneficial

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<sup>6</sup> Of course, the Division could also have sought Newport and Jenirob trading records by addressing subpoenas directly to those companies. It makes no attempt to explain why it did not do so, in a timely manner or at all.



owner of both companies (TR at 65:4-17; *see also*, TR 15:19-16:13).

That belated concession further undermines the Division's attempt to get collateral estoppel mileage from the Initial Decision. It can hardly contend in good faith that Pierce should be bound in this proceeding by findings in the First Proceeding that it now concedes were wrong and admits it is no longer alleging.

The Division's concession also exposes even more starkly the absence of any evidence to support the claim it continues to make that Pierce "earned over \$7.2 million in profits" from Lexington sales in the Newport and Jenirob accounts (TR at 18:10-13) and "reaped millions of dollars in profits" from Section 5 violations (TR at 31:23-25). While the Division might at least have urged an inference of personal profit had Pierce actually owned Newport and Jenirob, the undisputed evidence that he did not – now conceded by the Division – puts that issue to rest.

The legal consequence of the Division's concession that Pierce did not own Newport and Jenirob and his undisputed testimony that he had no direct or indirect ownership interest in either company is that the Division cannot seek disgorgement from him of profits it has not shown he ever in fact received. *See, e.g., SEC v. Blatt*, 583 F.2d 1325, 1335 (5<sup>th</sup> Cir. 1978) (the power to order disgorgement extends only to actual profits a defendant obtained by wrongdoing); *SEC v. Berry*, 2008 WL 4065865 at \*10 (N.D. Cal. 2008) ("if the defendant never exercised any [allegedly backdated] options and no longer possesses them, the defendant has not been unjustly enriched and there is nothing for her to disgorge").<sup>7</sup>

The Division's attempt to obtain disgorgement from Pierce of Newport and Jenirob

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<sup>7</sup> When the Hearing Officer asked the Division to explain the legal test for determining whether Pierce was responsible for trading by Newport and Jenirob, it responded by saying Pierce was liable "as the beneficial owner who caused the sale" (TR 15 19:4-10). But the Division has never offered any evidence, in either the First Proceeding or this one, that Pierce actually directed or otherwise "caused" or "participated in" any of the particular sales for which the Division again seeks disgorgement here. Merely being the beneficial owner of shares for purposes of Schedule 13D reporting does not render a person liable for everything that occurs in the account in which those shares are held.

profits it never showed ended up in his pocket is contrary to law and is undermined by its belated concession that he didn't have any ownership interest in either company.

**E. THE DIVISION'S ORAL ARGUMENT CONFIRMS THAT THE SCOPE OF ITS SECTION 5 CLAIM IN THE FIRST PROCEEDING BARS THIS DUPLICATIVE ONE**

Finally, the Division's oral argument also shows why it cannot truthfully urge that its Section 5 claim against Pierce was not and could not have been brought in the First Proceeding insofar as it embraces the Newport and Jenirob transactions. The Division argued that its "present Section 5 claim was not adjudicated in the first proceeding" because "the initial decision in the first proceeding is controlling" (TR at 21:24-22:1).

But the Division's selective citations to the Initial Decision ignore the Hearing Officer's repeated reliance on the "new evidence" she had admitted for purposes of liability (Wells Ex. 13) and cited extensively in the Initial Decision (*e.g.*, Wells Ex. 14 at 5, 6, 13, 14). Indeed, the crux of her conclusion that Pierce was an affiliate of Lexington and thus ineligible for the Section 4(1) exemption from registration of resales under Section 5 was the evidence the Division obtained from Hypo Bank from which the Hearing Officer found (erroneously, as the Division now concedes) that he was the beneficial owner of Newport (*Id.* at 17).

While the Division acknowledged that the Initial Decision had admitted the new evidence regarding Newport and Jenirob transactions for purposes of liability (TR at 26:5-7), it ignored the obvious fact that the ruling on liability necessarily confirmed that the claim for Section 5 liability as to Newport and Jenirob transactions (as distinct from the disgorgement remedy it sought for that liability) was within the scope of the First OIP. Had it not been, the Hearing Officer would have kept it out altogether based on her view that only the Commission can expand the scope of an OIP (Wells Ex. 13). The Division confirmed as much by acknowledging that the new evidence was crucial in determining whether there was a Section 5 claim at all (TR

at 61:22-62:8). Thus, beyond all the evidence to which Pierce pointed in his motion papers, the Division's June 8 argument confirms that the Section 5 claim it presented in the First Proceeding cannot be split after the fact and re-adjudicated here.

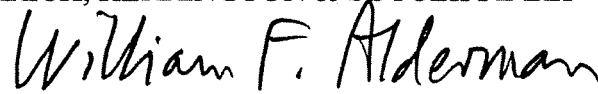
### CONCLUSION

For the reasons given above and in Pierce's earlier briefs and oral argument, Pierce's motion for summary disposition should be granted and the Division's motion denied.

Dated: June 29, 2011

Respectfully Submitted

ORRICK, HERRINGTON & SUTCLIFFE LLP



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[REDACTED]

RECEIVED  
JUN 30 2011  
OFFICE OF THE SECRETARY

**UNITED STATES OF AMERICA**  
**Before The**  
**SECURITIES AND EXCHANGE COMMISSION**

**Administrative Proceeding**  
**File No. 3-13927**

**In the Matter of** )  
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 )  
**GORDON BRENT PIERCE,** )  
**NEWPORT CAPITAL CORP., AND** )  
**JENIROB COMPANY LTD.,** )  
 )  
 )  
**Respondents.** )

**SUPPLEMENTAL DECLARATION OF**  
**CHRISTOPHER B. WELLS IN SUPPORT**  
**OF RESPONDENT PIERCE'S POST-**  
**ORAL ARGUMENT BRIEF**

I, Christopher B. Wells, declare as follows:

1. I am one of the attorneys for respondent G. Brent Pierce in the above-entitled administrative proceeding. I previously represented Mr. Pierce in an earlier administrative proceeding entitled *In the Matter of Lexington Resources, Inc., Grant Atkins, and Gordon Brent Pierce*, Admin. Proc. File No. 3-13109 (the "First Proceeding"). I also represented Mr. Pierce in responding to the SEC Division of Enforcement's request for documents and testimony during the investigation that led to both administrative proceedings. I have personal knowledge of the facts stated in this declaration, and I could and would testify competently to those facts if called as a witness.

2. Attached as Exhibit A hereto is a true and correct copy of a letter to me from SEC Division of Enforcement attorney Steven D. Buchholz dated May 17, 2006, together with the subpoena and Form 1662 enclosed with that letter.

3. Attached as Exhibit B hereto is a true and correct copy of my letter to Mr. Buchholz dated July 21, 2006, together with the "subpoena attachment to Brent Pierce, with responses" enclosed with that letter.

4. Attached as Exhibit C hereto are true and correct copies of pages from the transcript of testimony given by Brent Pierce on July 27-28, 2006 in connection with the SEC's private investigation entitled "In the Matter of Lexington Resources, Inc. (SF 2989)," at which I was present.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Seattle, Washington on June 29, 2011.



---

Christopher B. Wells



UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
SAN FRANCISCO DISTRICT OFFICE  
44 Montgomery Street  
SUITE 2600  
SAN FRANCISCO, CALIFORNIA 94104

DIRECT DIAL: 415-293-0312  
FAX NUMBER: 415-705-2331  
EMAIL: HUCHOLZ@SEC.GOV

May 17, 2006

VIA FACSIMILE TO 206-223-7107  
AND U.S. MAIL

Christopher B. Wells, Esq.  
Lane Powell P.C.  
1420 Fifth Avenue, Suite 4100  
Seattle, WA 98101

Re: *In the Matter of Lexington Resources, Inc. (SF-2989)*

Dear Mr. Wells:

Pursuant to a formal order of private investigation entered by the United States Securities and Exchange Commission ("Commission") in the above-referenced matter, the staff of the Commission is issuing the enclosed subpoena to your client Brent Pierce. The attachment to the subpoena contains the same request for documents that was included in the staff's request to Mr. Pierce dated October 19, 2005 and extends the relevant time period through today, May 17, 2006.

Please read the subpoena and this letter carefully. This letter answers some questions Mr. Pierce may have about the subpoena. Please also read the enclosed Form 1662. Compliance with the subpoena is mandatory; failure to comply may result in a fine and/or imprisonment.

Producing Documents

*What materials must be produced?*

The subpoena requires production of the documents described in the attachment to the subpoena. The attachment defines some terms (such as "document") before listing what must be produced. These documents must be produced to the Commission by May 31, 2006.

Please note that if copies of a document differ in any way, they are considered separate documents and each one must be produced. For example, if there are two copies of the same letter, but only one of them has handwritten notes on it, both the clean copy and the one with notes must be produced.

If you prefer, photocopies of the originals may be produced. The Commission cannot reimburse copying costs. The copies must be identical to the originals, including even faint marks or print. If you choose to send copies, the originals must be kept in a safe place. We will accept the copies for now, but may require production of the originals later.

EXHIBIT A

Christopher B. Wells, Esq.  
May 17, 2006  
Page 2

If photocopies are produced, please put an identifying notation on each page of each document to indicate that Mr. Pierce produced it, and number the pages of all the documents submitted. Please make sure the notation and number do not conceal any writing or marking on the document. If originals are produced, please do not add any identifying notations.

*Do I need to send anything else?*

You should enclose a list briefly describing each item produced. The list should state to which category number(s) in the subpoena attachment each item responds.

Mr. Pierce also should include a cover letter stating whether he believes he has met his obligations under the subpoena by searching carefully and thoroughly for everything called for by the subpoena, and producing it all to us.

*What if I do not produce everything described in the attachment to the subpoena?*

The subpoena requires production of all the materials described in it. If, for any reason – including a claim of attorney-client privilege – you do not produce something called for by the subpoena, you should submit a list of what is not being produced. The list should describe each item separately, noting:

- its author(s);
- its date;
- its subject matter;
- the name of the person who has the item now, or the last person known to have it;
- the names of everyone who ever had the item or a copy of it, and the names of everyone who was told the item's contents; and
- the reason the item was not produced.

If you withhold anything on the basis of a claim of attorney-client privilege or attorney work product protection, you should also identify the attorney and client involved.

*Where should I send the materials?*

Please send the materials to:

Steven D. Buchholz  
U.S. Securities and Exchange Commission  
44 Montgomery Street, 26<sup>th</sup> Floor  
San Francisco, California 94104

Christopher B. Wells, Esq.  
May 17, 2006  
Page 3

Testifying

*Where and when do I testify?*

The subpoena requires Mr. Pierce to testify under oath regarding this matter before officers of the Commission at 700 Stewart Street, Fifth Floor, Seattle, Washington 98101 on Wednesday, June 7, 2006 at 9:00 a.m.

Other Important Information

*What will the Commission do with the materials produced?*

The enclosed Form 1662 includes a List of Routine Uses of information provided to the Commission. This form has other important information for Mr. Pierce. Please read it carefully.

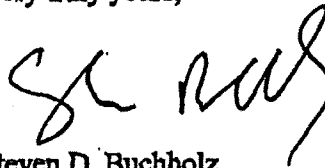
*Has the Commission determined that anyone has done anything wrong?*

This investigation is a non-public, fact-finding inquiry. We are trying to determine whether there have been any violations of the federal securities laws. The investigation and the subpoena do not mean that we have concluded that anyone has broken the law. Also, the investigation does not mean that we have a negative opinion of any person, entity, or security.

*I have read this letter, the subpoena, and Form 1662, but I still have questions. What should I do?*

If you have any other questions, please call me at 415-293-0312.

Very truly yours,



Steven D. Buchholz  
Staff Attorney, Office of Enforcement

Encls: Subpoena, with Attachment  
Form 1662





**SUBPOENA  
UNITED STATES OF AMERICA  
SECURITIES AND EXCHANGE COMMISSION**

**In the Matter of Lexington Resources, Inc. (SF-2989)**

**To: Brent Pierce**  
c/o Christopher B. Wells, Esq.  
Lane Powell P.C.  
1420 Fifth Avenue, Suite 4100  
Seattle, WA 98101

**YOU MUST PRODUCE** everything specified in the Attachment to this subpoena to officers of the Securities and Exchange Commission at the place, and no later than the date and time, specified below.

U.S. Securities and Exchange Commission  
44 Montgomery Street, 26<sup>th</sup> Floor  
San Francisco, California 94104  
Date/Time: May 31, 2006 at 5:00 p.m. PDT

**YOU MUST TESTIFY** before officers of the Securities and Exchange Commission, at the place, date and time specified below.

United States Attorney's Office  
700 Stewart Street, Fifth Floor  
Seattle, Washington 98101  
Date/Time: June 7, 2006 at 9:00 a.m. PDT

**FEDERAL LAW REQUIRES YOU TO COMPLY WITH THIS SUBPOENA.**

Failure to comply may subject you to a fine and/or imprisonment.

By: \_\_\_\_\_

Steven D. Buchholz, Staff Attorney

U.S. Securities and Exchange Commission, San Francisco District Office

44 Montgomery Street, 26<sup>th</sup> Floor; San Francisco, CA 94104; Telephone: 415-293-0312

Date: May 17, 2006

I am an officer of the United States Securities and Exchange Commission authorized to issue subpoenas in this matter. The Securities and Exchange Commission has issued a formal order authorizing this investigation under Section 21(b) of the Securities Exchange Act of 1934.

**NOTICE TO WITNESS:** If you claim a witness fee or mileage, submit this subpoena with the claim voucher.

*Subpoena Attachment to Brent Pierce  
Lexington Resources, Inc. (SF-2989)  
May 17, 2006  
Page 2*

**Subpoena Attachment to Brent Pierce**

**In the Matter of Lexington Resources, Inc. (SF-2989)  
May 17, 2006**

**DEFINITIONS**

- A. "YOU" and "YOUR" mean Brent Pierce and any person or entity acting on YOUR behalf, including but not limited to agents, employees, consultants, accountants, and attorneys.
- B. "LEXINGTON RESOURCES" means Lexington Resources, Inc. and all of its current and former officers (including but not limited to Grant Atkins and Vaughn Barbon), directors (including but not limited to Douglas Humphreys, Norman MacKinnon, and Steve Jewett), employees, agents, independent contractors, partners, limited partners, attorneys, accountants, affiliates, subsidiaries (including Lexington Oil & Gas Ltd. Co. LLC), divisions, predecessors, and successors; and any person acting on behalf of LEXINGTON RESOURCES with express, implied, or apparent authority to do so.
- C. "DOCUMENTS" means any and all records in YOUR possession, custody, or control, whether drafts or in finished versions, whether stored in written, magnetic, or electronic form, including but not limited to files, notes, summaries, analyses, memoranda, correspondence, electronic mail, facsimile transmissions, audio or video tape recordings, computer tapes or disks, and all records encompassed by Rule 34(a) of the Federal Rules of Civil Procedure.
- D. "COMMUNICATIONS" includes any transmittal or receipt of information, whether by chance or prearranged, formal or informal, oral, written, or electronic, including but not limited to conversations, meetings, and discussions in person or by telephone or video conference; and written correspondence through the use of the mails, telephone lines and wires, courier services, and electronic media such as electronic mail and instant messenger.

**TIME PERIOD**

Unless otherwise stated below, this Attachment calls for DOCUMENTS dated, created, or reviewed between October 1, 2003 and May 17, 2006.

*Subpoena Attachment to Brent Pierce  
Lexington Resources, Inc. (SF-2989)  
May 17, 2006  
Page 3*

DOCUMENTS TO BE PRODUCED

- 1) DOCUMENTS sufficient to identify by name, address, and telephone number every company or other entity for which YOU have provided services or with which YOU have been affiliated in any capacity since 1995.
- 2) DOCUMENTS reflecting all residential addresses, telephone numbers, drivers license numbers, passport numbers, and aliases used by YOU since 1995.
- 3) All statements from checking, savings, credit card, and other bank accounts in YOUR name or in which YOU have a beneficial interest.
- 4) All statements from securities brokerage accounts in YOUR name, in which YOU have a beneficial interest or exercise discretionary control, or in whose profits and/or losses YOU share.
- 5) All DOCUMENTS constituting, reflecting, or relating to any agreement, whether written or oral, between YOU and LEXINGTON RESOURCES.
- 6) DOCUMENTS sufficient to identify by name, address, telephone number, and e-mail address all persons and entities retained, directly or indirectly, by YOU to provide promotional, marketing, advertising, financial, managerial, accounting, investment, scientific, geologic, geophysical, drilling, operational, legal, business relations, public relations, media relations, investor relations, or investor communications services relating to LEXINGTON RESOURCES.
- 7) All DOCUMENTS constituting, reflecting, or relating to any agreement, whether written or oral, between YOU and any other person or entity concerning LEXINGTON RESOURCES.
- 8) All DOCUMENTS constituting or reflecting COMMUNICATIONS between YOU and LEXINGTON RESOURCES.
- 9) All DOCUMENTS constituting or reflecting COMMUNICATIONS between YOU and any other person or entity concerning LEXINGTON RESOURCES.
- 10) All DOCUMENTS constituting or relating to invoices, statements of work, or any other DOCUMENTS describing services actually performed by YOU or any other person or entity relating to LEXINGTON RESOURCES.
- 11) All DOCUMENTS relating to payments or other consideration of any kind (including but not limited to stock, stock options, notes, and warrants) exchanged, directly or indirectly, between YOU and LEXINGTON RESOURCES. This request includes but is not limited to receipts, invoices, requisitions, cancelled

*Subpoena Attachment to Brent Pierce  
Lexington Resources, Inc. (SF-2989)  
May 17, 2006  
Page 4*

checks (front and back), stock transfer records, accounts payable records, and accounts receivable records.

- 12) All DOCUMENTS relating to payments or other consideration of any kind (including but not limited to stock, stock options, notes, and warrants) exchanged, directly or indirectly, between YOU and any other person or entity in connection with services relating to LEXINGTON RESOURCES. This request includes but is not limited to receipts, invoices, requisitions, cancelled checks (front and back), stock transfer records, accounts payable records, and accounts receivable records.
- 13) All drafts and final versions of promotional materials, newsletters, reports, tout sheets, marketing, advertising, press releases, public statements, investor kits, investor relations packages, or similar DOCUMENTS, including but not limited to e-mails, facsimiles, and internet postings, relating to LEXINGTON RESOURCES.
- 14) All DOCUMENTS that support each statement made in any materials distributed by YOU relating to LEXINGTON RESOURCES.
- 15) DOCUMENTS sufficient to identify all internet service provider accounts and e-mail addresses maintained by YOU.
- 16) DOCUMENTS sufficient to identify all screen names and user accounts maintained by YOU for Raging Bull, Yahoo, or any other internet stock message board or chat room.
- 17) All messages relating to LEXINGTON RESOURCES posted by YOU on Raging Bull, Yahoo, or any other internet stock message board or chat room.
- 18) Telephone records for all telephone numbers maintained by YOU.
- 19) All DOCUMENTS reflecting or relating to any loans or lines of credit received or given, directly or indirectly, between YOU and LEXINGTON RESOURCES.
- 20) All DOCUMENTS reflecting or relating to issuances, purchases, grants, sales, transfers, or any other transactions by YOU in the securities of LEXINGTON RESOURCES, including but not limited to stock, stock options, notes, and warrants.
- 21) All DOCUMENTS relating to the lease, rental, or ownership of premises located at 2211 Rimland Drive, Suite 100, Bellingham, WA 98225; including but not limited to agreements and records of payments.

*Subpoena Attachment to Brent Pierce  
Lexington Resources, Inc. (SF-2989)  
May 17, 2006  
Page 5*

- 22) All DOCUMENTS relating to the lease, rental, or ownership of premises located at Rennweg 28, CH-8001 Zürich, Switzerland; including but not limited to agreements and records of payments.
- 23) All DOCUMENTS relating to the lease, rental, or ownership of premises located at 84 Brook Street, Mayfair, London W1K 5EH, United Kingdom; including but not limited to agreements and records of payments.
- 24) All DOCUMENTS relating to the lease, rental, or ownership of premises located at 16377 Lincoln Woods Court, Surrey, British Columbia B3S 0J8, Canada; including but not limited to agreements and records of payments.

## SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

### Supplemental Information for Persons Requested to Supply Information Voluntarily or Directed to Supply Information Pursuant to a Commission Subpoena

#### False Statements and Documents

Section 1001 of Title 18 of the United States Code provides as follows:

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under this title or imprisoned not more than five years, or both.

#### Testimony

If your testimony is taken, you should be aware of the following:

1. *Record.* Your testimony will be transcribed by a reporter. If you desire to go off the record, please indicate this to the Commission employee taking your testimony, who will determine whether to grant your request. The reporter will not go off the record at your, or your counsel's, direction.

2. *Counsel.* You have the right to be accompanied, represented and advised by counsel of your choice. Your counsel may advise you before, during and after your testimony; question you briefly at the conclusion of your testimony to clarify any of the answers you give during testimony; and make summary notes during your testimony solely for your use. If you are accompanied by counsel, you may consult privately.

If you are not accompanied by counsel, please advise the Commission employee taking your testimony whenever during your testimony you desire to be accompanied, represented and advised by counsel. Your testimony will be adjourned to afford you the opportunity to arrange to do so.

You may be represented by counsel who also represents other persons involved in the Commission's investigation. This multiple representation, however, presents a potential conflict of interest if one client's interests are or may be adverse to another's. If you are represented by counsel who also represents other persons involved in the investigation, the Commission will assume that you and counsel have discussed and resolved all issues concerning possible conflicts of interest. The choice of counsel, and the responsibility for that choice, is yours.

3. *Transcript Availability.* Rule 6 of the Commission's Rules Relating to Investigations, 17 CFR 203.6, states:

A person who has submitted documentary evidence or testimony in a formal investigative proceeding shall be entitled, upon written request, to procure a copy of his documentary evidence or a transcript of his testimony on payment of the appropriate fees: *Provided, however,* That in a nonpublic formal investigative proceeding the Commission may for good cause deny such request. In any event, any witness, upon proper identification, shall have the right to inspect the official transcript of the witness' own testimony.

If you wish to purchase a copy of the transcript of your testimony, the reporter will provide you with a copy of the appropriate form. Persons requested to supply information voluntarily will be allowed the rights provided by this rule.

4. *Perjury.* Section 1621 of Title 18 of the United States Code provides as follows:

Whoever . . . having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly . . . willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true . . . is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years or both . . .

5. *Fifth Amendment and Voluntary Testimony.* Information you give may be used against you in any federal, state, local or foreign administrative, civil or criminal proceeding brought by the Commission or any other agency.

You may refuse, in accordance with the rights guaranteed to you by the Fifth Amendment to the Constitution of the United States, to give any information that may tend to incriminate you or subject you to fine, penalty or forfeiture.

If your testimony is not pursuant to subpoena, your appearance to testify is voluntary, you need not answer any question, and you may leave whenever you wish. Your cooperation is, however, appreciated.

6. *Formal Order Availability.* If the Commission has issued a formal order of investigation, it will be shown to you during your testimony, at your request. If you desire a copy of the formal order, please make your request in writing.

#### Submissions and Settlements

Rule 5(c) of the Commission's Rules on Informal and Other Procedures, 17 CFR 202.5(c), states:

Persons who become involved in . . . investigations may, on their own initiative, submit a written statement to the Commission setting forth their interests and position in regard to the subject matter of the investigation. Upon request, the staff, in its discretion, may advise such persons of the general nature of the investigation, including the indicated violations as they pertain to them, and the amount of time that may be available for preparing and submitting a statement prior to the presentation of a staff recommendation to the Commission for the commencement of an administrative or injunction proceeding. Submissions by interested persons should be forwarded to the appropriate Division Director, Regional Director, or District Administrator with a copy to the staff members conducting the investigation and should be clearly referenced to the specific investigation to which they relate. In the event a recommendation for the commencement of an enforcement proceeding is presented by the staff, any submissions by interested persons will be forwarded to the Commission in conjunction with the staff memorandum.

The staff of the Commission routinely seeks to introduce submissions made pursuant to Rule 5(c) as evidence in Commission enforcement proceedings, when the staff deems appropriate.

Rule 5(f) of the Commission's Rules on Informal and Other Procedures, 17 CFR 202.5(f), states:

In the course of the Commission's investigations, civil lawsuits, and administrative proceedings, the staff, with appropriate authorization, may discuss with persons involved the disposition of such matters by consent, by settlement, or in some other manner. It is the policy of the Commission, however, that the disposition of any such matter may not, expressly or impliedly, extend to any criminal charges that have been, or may be, brought against any such person or any recommendation with respect thereto. Accordingly, any person involved in an enforcement matter before the Commission who consents, or agrees to consent, to any judgment or order does so solely for the purpose of resolving the claims against him in that investigative, civil, or administrative matter and not for the purpose of resolving any criminal charges that have been, or might be, brought against him. This policy reflects the fact that neither the Commission nor its staff has the authority or responsibility for instituting, conducting, settling, or otherwise disposing of criminal proceedings. That authority and responsibility are vested in the Attorney General and representatives of the Department of Justice.

#### Freedom of Information Act

The Freedom of Information Act, 5 U.S.C. 552 (the "FOIA"), generally provides for disclosure of information to the public. Rule 83 of the Commission's Rules on Information and Requests, 17 CFR 200.83, provides a procedure by which a person can make a written request that information submitted to the Commission not be disclosed under the FOIA. That rule states that no determination as to the validity of such a request will be made until a request for disclosure of the information under the FOIA is received. Accordingly, no response to a request that information not be disclosed under the FOIA is necessary or will be given until a request for disclosure under the FOIA is received. If you desire an acknowledgment of receipt of your written request that information not be disclosed under the FOIA, please provide a duplicate request, together with a stamped, self-addressed envelope.

#### Authority for Solicitation of Information

*Persons Directed to Supply Information Pursuant to Subpoena.* The authority for requiring production of information is set forth in the subpoena. Disclosure of the information to the Commission is mandatory, subject to the valid assertion of any legal right or privilege you might have.

*Persons Requested to Supply Information Voluntarily.* One or more of the following provisions authorizes the Commission to solicit the information requested: Sections 19 and/or 20 of the Securities Act of 1933; Section 21 of the Securities Exchange Act of 1934; Section 321 of the Trust Indenture Act of 1939; Section 42 of the Investment Company Act of 1940; Section 209

of the Investment Advisers Act of 1940; and 17 CFR 202.5. Disclosure of the requested information to the Commission is voluntary on your part.

#### Effect of Not Supplying Information

*Persons Directed to Supply Information Pursuant to Subpoena.* If you fail to comply with the subpoena, the Commission may seek a court order requiring you to do so. If such an order is obtained and you thereafter fail to supply the information, you may be subject to civil and/or criminal sanctions for contempt of court. In addition, if the subpoena was issued pursuant to the Securities Exchange Act of 1934, the Investment Company Act of 1940, and/or the Investment Advisers Act of 1940, and if you, without just cause, fail or refuse to attend and testify, or to answer any lawful inquiry, or to produce books, papers, correspondence, memoranda, and other records in compliance with the subpoena, you may be found guilty of a misdemeanor and fined not more than \$1,000 or imprisoned for a term of not more than one year, or both.

*Persons Requested to Supply Information Voluntarily.* There are no direct sanctions and thus no direct effects for failing to provide all or any part of the requested information.

#### Principal Uses of Information

The Commission's principal purpose in soliciting the information is to gather facts in order to determine whether any person has violated, is violating, or is about to violate any provision of the federal securities laws or rules for which the Commission has enforcement authority, such as rules of securities exchanges and the rules of the Municipal Securities Rulemaking Board. Facts developed may, however, constitute violations of other laws or rules. Information provided may be used in Commission and other agency enforcement proceedings. Unless the Commission or its staff explicitly agrees to the contrary in writing, you should not assume that the Commission or its staff acquiesces in, accedes to, or concurs or agrees with, any position, condition, request, reservation of right, understanding, or any other statement that purports, or may be deemed, to be or to reflect a limitation upon the Commission's receipt, use, disposition, transfer, or retention, in accordance with applicable law, of information provided.

#### Routine Uses of Information

The Commission often makes its files available to other governmental agencies, particularly United States Attorneys and state prosecutors. There is a likelihood that information supplied by you will be made available to such agencies where appropriate. Whether or not the Commission makes its files available to other governmental agencies is, in general, a confidential matter between the Commission and such other governmental agencies.

Set forth below is a list of the routine uses which may be made of the information furnished.

1. To coordinate law enforcement activities between the SEC and other federal, state, local or foreign law enforcement agencies, securities self-regulatory organizations, and foreign securities authorities.
2. By SEC personnel for purposes of investigating possible violations of, or to conduct investigations authorized by, the federal securities laws.
3. Where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred to the appropriate agency, whether federal, state, or local, a foreign governmental authority or foreign securities authority, or a securities self-regulatory organization charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.
4. In any proceeding where the federal securities laws are in issue or in which the Commission, or past or present members of its staff, is a party or otherwise involved in an official capacity.
5. To a federal, state, local or foreign governmental authority or foreign securities authority maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.
6. To a federal, state, local or foreign governmental authority or foreign securities authority, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.
7. In connection with proceedings by the Commission pursuant to Rule 102(e) of its Rules of Practice, 17 CFR 201.102(e).



8. When considered appropriate, records in this system may be disclosed to a bar association, the American Institute of Certified Public Accountants, a state accountancy board or other federal, state, local or foreign licensing or oversight authority, foreign securities authority, or professional association or self-regulatory authority performing similar functions, for possible disciplinary or other action.

9. In connection with investigations or disciplinary proceedings by a state securities regulatory authority, a foreign securities authority, or by a self-regulatory organization involving one or more of its members.

10. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained or for related personnel management functions or manpower studies, and to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act or to locate specific individuals for personnel research or other personnel management functions.

11. In connection with their regulatory and enforcement responsibilities mandated by the federal securities laws (as defined in Section 3(a)(47) of the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(47)), or state or foreign laws regulating securities or other related matters, records may be disclosed to national securities associations that are registered with the Commission, the Municipal Securities Rulemaking Board, the Securities Investor Protection Corporation, the federal banking authorities, including but not limited to, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation, state securities regulatory or law enforcement agencies or organizations, or regulatory law enforcement agencies of a foreign government, or foreign securities authority.

12. To any trustee, receiver, master, special counsel, or other individual or entity that is appointed by a court of competent jurisdiction or as a result of an agreement between the parties in connection with litigation or administrative proceedings involving allegations of violations of the federal securities laws (as defined in Section 3(a)(47) of the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(47)) or the Commission's Rules of Practice, 17 CFR 202.100-900, or otherwise, where such trustee, receiver, master, special counsel or other individual or entity is specifically designated to perform particular functions with respect to, or as a result of, the pending action or proceeding or in connection with the administration and enforcement by the Commission of the federal securities laws or the Commission's Rules of Practice.

13. To any persons during the course of any inquiry or investigation conducted by the Commission's staff, or in connection with civil litigation, if the staff has reason to believe that the person to whom the record is disclosed may have further information about the matters related therein, and those matters appeared to be relevant at the time to the subject matter of the inquiry.

14. To any person with whom the Commission contracts to reproduce, by typing, photocopy or other means, any record within this system for use by the Commission and its staff in connection with their official duties or to any person who is utilized by the Commission to perform clerical or stenographic functions relating to the official business of the Commission.

15. Inclusion in reports published by the Commission pursuant to authority granted in the federal securities laws (as defined in Section 3(a)(47) of the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(47)).

16. To members of advisory committees that are created by the Commission or by the Congress to render advice and recommendations to the Commission or to the Congress, to be used solely in connection with their official designated functions.

17. To any person who is or has agreed to be subject to the Commission's Rules of Conduct, 17 CFR 200.735-1 to 735-18, and who assists in the investigation by the Commission of possible violations of federal securities laws (as defined in Section 3(a)(47) of the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(47)), in the preparation or conduct of enforcement actions brought by the Commission for such violations, or otherwise in connection with the Commission's enforcement or regulatory functions under the federal securities laws.

18. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

19. To respond to inquiries from Members of Congress, the press and the public which relate to specific matters that the Commission has investigated and to matters under the Commission's jurisdiction.

20. To prepare and publish information relating to violations of the federal securities laws as provided in 15 U.S.C. 78c(a)(47), as amended.

21. To respond to subpoenas in any litigation or other proceeding.

22. To a trustee in bankruptcy.

23. To any governmental agency, governmental or private collection agent, consumer reporting agency or commercial reporting agency, governmental or private employer of a debtor, or any other person, for collection, including collection by administrative offset, federal salary offset, tax refund offset, or administrative wage garnishment, of amounts owed as a result of Commission civil or administrative proceedings.

*Small Business Owners:* The SEC always welcomes comments on how it can better assist small businesses. If you have comments about the SEC's enforcement of the securities laws, please contact the Office of Chief Counsel in the SEC's Division of Enforcement at 202-942-4530 or the SEC's Small Business Ombudsman at 202-942-2950. If you would prefer to comment to someone outside of the SEC, you can contact the Small Business Regulatory Enforcement Ombudsman at <http://www.sba.gov/ombudsman> or toll free at 888-REG-FAIR. The Ombudsman's office receives comments from small businesses and annually evaluates federal agency enforcement activities for their responsiveness to the special needs of small business.



CHRISTOPHER B. WELLS  
206-223-7084  
WELLS@LANEPOWELL.COM

B

July 21, 2006

**Via Email and Overnight Air**

Steven D. Buchholz, Esq.  
Staff Attorney  
Securities and Exchange Commission  
San Francisco District Office  
44 Montgomery Street  
Suite 2600  
San Francisco, CA 94104

cc (w/o encl): Office of Freedom of Information and Privacy Act Operations  
SEC, Operations Center  
6432 General Green Way  
Alexandria, VA 22312-2413

Subject: **In the Matter of Lexington Resources, Inc., (SF-2989)**  
**FOIA Confidential Treatment Request by Subpoena Recipient**

Dear Mr. Buchholz:

With this letter, we are transmitting documents produced by Brent Pierce ("Pierce") under subpoena, along with a "Subpoena Attachment to Brent Pierce with Responses."

We are also revising a document previously produced by International Market Trend, Inc. ("IMT") by enclosing IMT 002589-A, which contains several additional IMT email addresses.

The enclosed Brent Pierce documents are numbered BP 00185-00424. These are all marked "CONFIDENTIAL," because they are personal, private financial records. We request that all records marked "CONFIDENTIAL" receive confidential treatment for all purposes, including any use as an exhibit discussed in taking testimony or any response to a request under the Freedom of Information Act.

Mr. Pierce is still gathering documents with the intention to produce them before you begin taking his testimony on Thursday, July 27, 2006. When we submit them, we will revise the

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LAW OFFICES  
ANCHORAGE, AK . OLYMPIA, WA  
PORTLAND, OR . SEATTLE, WA  
LONDON, ENGLAND

EXHIBIT B

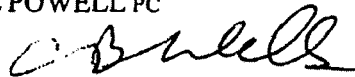
Steven D. Buchholz, Esq.  
July 21, 2006  
Page 2

responses to Mr. Pierce's subpoena attachment, in order to correlate the documents produced to particular subpoena attachment request numbers.

If you need additional information or have any question or suggestion, please contact me. Thank you.

Yours truly,

LANE POWELL PC



Christopher B. Wells

CBW:srf

Enclosures

cc: Brent Pierce  
IMT  
Stephanie Ebert

121503.0001/1312292.1

**Subpoena Attachment to Brent Pierce  
WITH RESPONSES**

In the Matter of Lexington Resources, Inc. (SF-2989)  
May 17, 2006

**DEFINITIONS**

- A. "YOU" and "YOUR" mean Brent Pierce and any person or entity acting on YOUR behalf, including but not limited to agents, employees, consultants, accountants, and attorneys.
- B. "LEXINGTON RESOURCES" means Lexington Resources, Inc. and all of its current and former officers (including but not limited to Grant Atkins and Vaughn Barbon), directors (including but not limited to Douglas Humphreys, Norman MacKinnon, and Steve Jewett), employees, agents, independent contractors, partners, limited partners, attorneys, accountants, affiliates, subsidiaries (including Lexington Oil & Gas Ltd. Co. LLC), divisions, predecessors, and successors; and any person acting on behalf of LEXINGTON RESOURCES with express, implied, or apparent authority to do so.
- C. "DOCUMENTS" means any and all records in YOUR possession, custody, or control, whether drafts or in finished versions, whether stored in written, magnetic, or electronic form, including but not limited to files, notes, summaries, analyses, memoranda, correspondence, electronic mail, facsimile transmissions, audio or video tape recordings, computer tapes or disks, and all records encompassed by Rule 34(a) of the Federal Rules of Civil Procedure.
- D. "COMMUNICATIONS" includes any transmittal or receipt of information whether by chance or prearranged, formal or informal, oral, written, or electronic, including but not limited to conversations, meetings, and discussions in person or by telephone or video conference; and written correspondence through the use of the mails, telephone lines and wires, courier services, and electronic media such as electronic mail and instant messenger.

**TIME PERIOD**

Unless otherwise stated below, this Attachment calls for DOCUMENTS dated, created, or reviewed between October 1, 2003 and May 17, 2006.

**DOCUMENTS TO BE PRODUCED**

- 1. DOCUMENTS sufficient to identify by name, address, and telephone number every company or other entity for which YOU have provided services or with which YOU have been affiliated in any capacity since 1995.

**Objection, the term "affiliated" is vague. But, subject to the objection and interpreting the term "affiliated" to mean an entity as to which Brent Pierce served**

as an officer or director or was a majority shareholder, responsive documents pertaining to Lexington are being produced. E.g., see response to No. 4 below.

2. DOCUMENTS reflecting all residential addresses, telephone numbers, drivers license numbers, passport numbers, and aliases used by YOU since 1995.

**Brent Pierce (Gordon Brent Pierce).**

**Former residence:** [REDACTED], Surrey B.C. Canada V3S 0J8 (over 3 years), B.C. DL 2173218. See BP 00185-187.

**New residence as of July 5, 2006:** [REDACTED], Vancouver, B.C., VGB 1B1, Canada.

**Telephone numbers:** 6 [REDACTED] (land line); [REDACTED] (mobile); [REDACTED] (fax). Recently, the land line has been changed to 6 [REDACTED] and the fax has been changed to [REDACTED] the mobile number remains unchanged.

**Passport No.:** [REDACTED] has been changed upon renewal to: [REDACTED]. See copy of passport, BP 00188.

3. All statements from checking, savings, credit card, and other bank accounts in YOUR name or in which YOU have a beneficial interest.

**This request is unduly broad and invasive of Mr. Pierce's privacy, as well as the privacy of persons involved in his financial transactions who have had nothing to do with Lexington. Subject to this objection, however, Mr. Pierce is producing responsive financial records that pertain to his trading in Lexington stock.**

4. All statements from securities brokerage accounts in YOUR name, in which YOU have a beneficial interest or exercise discretionary control, or in whose profits and/or losses YOU share.

**Objection as to brokerage account statements of entities that have authorized discretionary trading of Lexington stock but have not authorized Mr. Pierce to produce their records. (Mr. Pierce is producing a new Schedule 13D report of the trading in Lexington stock by persons/entities described in this request.) Piper Jaffray brokerage statements for Mr. Pierce have been produced. Mr. Pierce is producing records of an offshore account reflecting the remainder of his personal Lexington stock trades. See BP 00244-418.**

5. All DOCUMENTS constituting, reflecting, or relating to any agreement, whether written or oral, between YOU and LEXINGTON RESOURCES.

**Option exercise agreements have already been produced, and Mr. Pierce does not have documents related to more recent option exercises. (See Lexington documents.)**

6. DOCUMENTS sufficient to identify by name, address, telephone number, and email address all persons and entities retained, directly or indirectly, by YOU to provide

promotional, marketing, advertising, financial, managerial, accounting, investment, scientific, geologic, geophysical, drilling, operational, legal, business relations, public relation, media relations, investor relation, or investor communications services relating to LEXINGTON RESOURCES.

**Brent Pierce has no responsive documents.**

7. All DOCUMENTS constituting, reflecting, or relating to any agreement, whether written or oral, between you and any other person or entity concerning LEXINGTON RESOURCES.

**Some responsive documents already have been provided by IMT. See also the new Schedule 13D report Mr. Pierce is producing.**

8. All DOCUMENTS constituting or reflecting COMMUNICATIONS between YOU and LEXINGTON RESOURCES.

**Mr. Pierce has not been able to locate responsive documents, except for BP 00189-242 and documents responsive to other requests herein.**

9. All DOCUMENTS constituting or reflecting COMMUNICATIONS between YOU and any other person or entity concerning LEXINGTON RESOURCES.

**Mr. Pierce has not been able to locate responsive documents, except for BP 00189-242 and documents responsive to other requests herein.**

10. All DOCUMENTS constituting or relating to invoices, statements of work, or any other DOCUMENTS describing services actually performed by YOU or any other person or entity relating to LEXINGTON RESOURCES.

**Responsive documents were produced by IMT, which previously provided copies of its invoices to Lexington. Mr. Pierce does not maintain personal copies of these invoices.**

11. All DOCUMENTS relating to payments or other consideration of any kind (including but not limited to stock, stock options, notes, and warrants) exchanged, directly or indirectly, between YOU and LEXINGTON RESOURCES. This request includes but is not limited to receipts, invoices, requisitions, cancelled checks (front and back), stock transfer records, accounts payable records, and accounts receivable records.

**Option exercise and securities brokerage records have been or are being provided and Mr. Pierce does not have documents related to more recent option exercises. (See Lexington documents.) Mr. Pierce is providing records responsive to Request No. 12, some of which could be responsive to this request as well. See BP 00419-424 and response to No. 4 above.**

12. All DOCUMENTS relating to payments or other consideration of any kind (including but not limited to stock, stock options, notes, and warrants) exchanged, directly or indirectly,

between YOU and any other person or entity in connection with services relating to LEXINGTON RESOURCES. This request includes but is not limited to receipts, invoices, requisitions, cancelled checks (front and back), stock transfer records, accounts payable records, and accounts receivable records.

**Stock option records have already been produced and Mr. Pierce does not have documents related to more recent option exercises. (See Lexington documents.) Mr. Pierce is producing banking, securities brokerage or other financial records responsive to this request, to the extent they can be retrieved. See BP 00419-424 and response to No. 4 above.**

13. All drafts and final versions of promotional materials, newsletters, reports, tout sheets, marketing, advertising, press releases, public statements, investor kits, investor relations packages, or similar DOCUMENTS, including but not limited to emails, facsimiles, and internet postings, relating to LEXINGTON RESOURCES.

**Mr. Pierce does not maintain these records, and has no responsive documents to produce. (See Lexington and IMT documents.)**

14. All DOCUMENTS that support each statement made in any materials distributed by YOU relating to LEXINGTON RESOURCES.

**Objection, the request lacks foundation and presumes incorrect facts. Brent Pierce does not prepare Lexington press releases or promotional brochures. (Lexington prepares press releases and promotional material itself or through other vendors. Lexington reviews its print material before providing the material for distribution. Mr. Pierce does not gather documents to support statements by Lexington.) Mr. Pierce has no responsive documents.**

15. DOCUMENTS sufficient to identify all internet services provider accounts and email addresses maintained by YOU.

**Mr. Pierce is attempting to locate an invoice from Enom, which he believes to be his only internet service provider. Mr. Pierce's personal email addresses are:**

16. DOCUMENTS sufficient to identify all screen names and user accounts maintained by YOU for Raging Bull, Yahoo, or any other internet stock message board or chat room.

**Mr. Pierce has no responsive documents that pertain to Lexington.**

17. All messages relating to LEXINGTON RESOURCES posted by YOU on Raging Bull, Yahoo, or any other internet stock message board or chat room.

**Mr. Pierce has no responsive documents that pertain to Lexington.**

18. Telephone records for all telephone numbers maintained by YOU.



**Mr. Pierce objects because this request is unduly broad, burdensome and invasive of Mr. Pierce's privacy and the privacy of others with whom he has communicated by telephone. If this request is narrowed, and the relevancy explained, Mr. Pierce will reconsider this objection.**

19. All DOCUMENTS reflecting or relating to any loans or lines of credit received or given, directly or indirectly, between YOU and LEXINGTON RESOURCES.

**Mr. Pierce has previously provided responsive documents (and IMT, and presumably ICI, provided debt assignments for some Lexington options to ICI or IMT optionees).**

20. All DOCUMENTS reflecting or relating to issuances, purchases, grants, sales, transfers, or any other transactions by YOU in the securities of LEXINGTON RESOURCES, including but not limited to stock, stock options, notes, and warrants.

**Mr. Pierce is producing his responsive records (Schedule 13D report) of trades in Lexington stock.**

21. All DOCUMENTS relating to the lease, rental, or ownership of premises located at 2211 Rimland Drive, Suite 100, Bellingham, WA 98225; including but not limited to agreements and records of payments.

**Mr. Pierce has no responsive records, and IMT has produced the responsive document – its lease of these premises.**

22. All DOCUMENTS relating to the lease, rental, or ownership or premises located at [REDACTED] Zurich, Switzerland; including but not limited to agreements and records of payments.

**Assuming responsive documents exist, Mr. Pierce cannot produce these documents without authorization from the businesses at that address.**

23. All DOCUMENTS relating to the lease, rental, or ownership or premises located at [REDACTED] London W1K 5EH, United Kingdom; including but not limited to agreements and records of payments.

**Assuming responsive documents exist, Mr. Pierce cannot produce these documents without authorization from the businesses at that address.**

24. All DOCUMENTS relating to the lease, rental, or ownership or premises located at [REDACTED], Surrey, British Columbia B3S 0J8, Canada; including but not limited to agreements and records of payments.

**Mr. Pierce is producing a copy of a title report showing his ownership (with his wife as a joint tenant) of the residence at this address. See BP 00185-187.**

Page 1	C O N T E N T S	Page 3
1 THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION	2 WITNESSES	EXAMINATION
2	3 Brent Pierce	7
3 In the Matter of: )	4	EXHIBITS
4 ) File No. SF-02989-A	5 EXHIBITS:	DESCRIPTION IDENTIFIED
5 LEXINGTON RESOURCES, INC. )	6 62	Subpoena to Brent Pierce. 10
6 WITNESS: Brent Pierce	7 63	Letter to Steve Buchholz 14
7 PAGES: 1 through 246	8	from Chris Wells dated
8 PLACE: Lane Powell	9	7/21/06 and attachments.
9 1420 Fifth Avenue, Suite 4100	10 64	Schedule 13D from Lexington 30
10 Seattle, Washington 98101	11	Resources, Inc.
11	12	Bates Nos. BP 00425 to 439.
12 DATE: Thursday, July 27, 2006	13 65	Statement of Account. 41
13	14	Bates Nos. BP 00267 to 335.
14 The above-titled matter came on for hearing, pursuant to	15 66	Financial Consulting 57
15 notice, at 8:45 a.m.	16	Services Agreement.
16	17	Bates Nos. IMT 000054 to
17	18	58.
18	19 67	Letter to Steve Buchholz 91
19	20	from Chris Wells dated
20	21	6/27/06 and attachments.
21	22 68	Lexington investor kit. 99
22	23	Bates Nos. IMT 002590
23	24	to 002621.
24 Diversified Reporting Services, Inc.	25	
25 (202) 467-9200		
Page 2	EXHIBITS (Continued)	Page 4
1 APPEARANCES:	2 EXHIBITS:	DESCRIPTION IDENTIFIED
2	3 69	Stock Option Plan Agreement 118
3 On behalf of the securities and Exchange Commission:	4	between Lexington and IMT.
4 STEVEN D. BUCHHOLZ, ESQ.	5	Bates Nos. IMT 000059
5 TRACY L. DAVIS, ESQ.	6	to 000070.
6 Division of Enforcement	7 70	Stock disbursement history. 120
7 Securities and Exchange Commission	8	Bates No. BP 00419.
8 44 Montgomery Street, Suite 2600	9 71	2-page Notice and Agreement 123
9 San Francisco, CA 94104	10	of Exercise of Option.
10	11	Bates Nos. IMT 000101
11 On behalf of the witness:	12	to 102.
12 CHRISTOPHER B. WELLS, ESQ.	13 72	Assignment Agreement. 126
13 Lane Powell	14	Bates Nos. IMT 000087 to 90.
14 1420 Fifth Avenue, Suite 4100	15 73	Assignment Agreement. 129
15 Seattle, Washington 98101	16	Bates Nos. IMT 000103
16 KEVIN WOODALL	17	to 106.
17 Crossin Coristine Woodall	18 74	Various letters between 134
18 660 - 220 Cambie Street	19	Rob Stevens and Grant
19 Vancouver, B.C. V627B9	20	Atkins.
20	21	Bates Nos. IMT 000095 to 100.
21	22 75	Stock Option Plan Agreement 140
22	23	Bates Nos. IMT 000125 to 136.
23	24 76	Transfer Agent file. 146
24	25	Bates Nos. TROH 04777 to 04791.
25		

1 A Yes.

2 Q How much time do you spent in Zurich?

3 A In the office in Zurich, not a lot. In Europe,

4 quite a bit.

5 Q How long have you been working for Newport Capital

6 Corp.?

7 A I believe it's seven or eight years or longer.

8 Q In the last year, how would you -- how much would

9 you approximate of the time you would spend in Europe?

10 A Probably had at least 12 to 15 trips to Europe.

11 Q What positions do you hold with Newport Capital

12 Corp.?

13 A I'm an officer and director of the company.

14 Q What office do you hold?

15 A President.

16 Q Who were the other directors?

17 A It's a company called Cockburn Directors, Paul

18 Dempsey.

19 BY MS. DAVIS:

20 Q Did you say Cockburn?

21 A Yes.

22 Q Okay. If you can just spell that for the court

23 reporter, you should do so because she's taking down --

24 A C-O-C-K-B-U-R-N.

25 Q And you said Paul Dempsey?

1 A Paul Dempsey.

2 Q D-E-M-P-S-E-Y?

3 A Yes.

4 BY MR. BUCHHOLZ:

5 Q So the director is actually Cockburn Directors?

6 A That's correct. He's the representative.

7 Q Are there any other directors?

8 A No.

9 Q And Mr. Dempsey is the representative, so what does

10 that mean? He controls the --

11 A For -- for Cockburn.

12 Q For Cockburn.

13 Who is Mr. Dempsey?

14 A He's an attorney. I believe he's an attorney.

15 Q Where is he based?

16 A He's based in the Turk and Caicos Islands.

17 Q Are there any other officers of Newport Capital

18 Corp.?

19 A There is a secretary. I can't begin to tell you

20 who that is. And an assistant secretary, Stephanie Ebert.

21 Q So there's a corporate secretary?

22 A Yes, but I can't remember off the top of my head.

23 Q Is it a man or a woman?

24 A I just don't remember right now.

25 Q Where is the person based?

1 A In the Turk and Caicos Islands.

2 Q And you said that there's an assistant secretary?

3 A Yes.

4 Q That's Stephanie Ebert?

5 BY MS. DAVIS:

6 Q Mr. Pierce, how long have you been an officer of

7 Newport Capital?

8 A I can't remember.

9 Q The entire time that you've worked there?

10 A I don't believe so.

11 Q But more than five years?

12 A I believe so.

13 Q And what about -- how long have you held the title

14 of president?

15 A Again, I don't remember. I could get you that

16 information. I just don't remember.

17 Q Did you become the president the same time that you

18 became an officer?

19 A I don't remember.

20 Q Who appointed you president of Newport Capital?

21 A Again, I'd have to get you that information.

22 Q Who -- okay. Who appointed you a director of

23 Newport Capital?

24 A Again, I'd have to get you that information.

25 BY MR. BUCHHOLZ:

1 Q Does Newport have board minutes or something like

2 that where you could determine?

3 A Yes.

4 Q Where are they maintained?

5 MR. WOODALL: If I could just interject for a

6 minute, one of our concerns is Mr. Pierce complying with the

7 law of the jurisdiction of Newport, as well as Canadian law

8 regarding information he can disclose.

9 So we're not necessarily at the moment objecting or

10 refusing to provide the information. We need to determine to

11 what extent Mr. Pierce in his capacity as an officer and

12 director he is at liberty to disclose minutes and other

13 information that may be confidential to Newport.

14 So for the moment at least, as I say, we're not

15 objecting to provide the information. We need to determine

16 whether he is lawfully entitled to do so in accordance with

17 the law and the jurisdiction, as well as applicable Canadian

18 law.

19 MS. DAVIS: Okay, and you said which jurisdiction,

20 Canadian and the other one?

21 MR. WOODALL: The jurisdiction where Newport is

22 resident in.

23 BY MS. DAVIS:

24 Q Okay. Was it Zurich, or which resident?

25 A The office in Zurich, so. It is a Belize

1 corporation.

2 **Q So resident in Belize?**

3 A Yes.

4 MR. WELLS: Well, I'll object to the extent the

5 question requires a legal conclusion. I think we're in that

6 -- on that turf. I understand you're just asking for the

7 witness's understanding but --

8 BY MR. BUCHHOLZ:

9 **Q Okay. And it is your understanding that there are**

10 **minutes? There may be an issue in terms of --**

11 A Yes.

12 **Q -- providing them, but there are minutes.**

13 **Did you form Newport Capital Corp.?**

14 A No.

15 **Q Who did?**

16 MR. WOODALL: That's one of the areas that requires

17 consideration as to the extent to which Mr. Pierce is at

18 liberty to disclose information about who formed the Newport

19 Capital.

20 BY MR. BUCHHOLZ:

21 **Q Who asked you or who did you talk to about getting**

22 **involved with Newport?**

23 MR. WELLS: Well, that's just a derivative of the

24 same question that Mr. Woodall just objected to.

25 MR. BUCHHOLZ: Well, I can ask him more generally.

1 If you want to object, you can object.

2 BY MR. BUCHHOLZ:

3 **Q How did you come to be an officer and director of**

4 **Newport?**

5 MR. WOODALL: Perhaps I can explain the problem.

6 The problem is that there are, as we understand it at least,

7 laws concerning disclosure of ownership interests and similar

8 confidential areas, and the problem with the question about

9 who asked him to become a party -- or rather become part of

10 Newport Capital may lead into an area which is confidential,

11 in which Mr. Pierce is not at liberty, under Belize law or

12 possibly Swiss law, as well, to disclose.

13 MR. WOODALL: As you said, it's not a matter of

14 refusing to understand, but once we understand specific

15 questions, we can determine more precisely whether there are

16 concerns about foreign confidentiality law.

17 BY MR. BUCHHOLZ:

18 **Q Okay. We may come back to that later. I'm going**

19 **to move on.**

20 **Just a couple of other questions just to confirm,**

21 **you've listed all of the officers and directors of Newport**

22 **Capital, correct?**

23 A The current ones, yeah.

24 **Q Okay. Who were there previous ones?**

25 A Again, I don't recollect, but it's possible, so.

1 **Q But as you sit here today, you don't recall others?**

2 A I don't -- I just don't remember.

3 **Q How many -- or does Newport Capital have employees?**

4 A No. Consultants.

5 **Q Who are -- well, approximately how many consultants**

6 **does Newport have?**

7 A That's a tough question to answer.

8 **Q Well, currently what's your understanding of about**

9 **how many people are providing consulting services to Newport?**

10 MR. WOODALL: I think with respect to the affairs

11 of Newport, in -- inasmuch as they regard what his business

12 activities are and so on, I would prefer if you can ask the

13 questions, and we can get back to you once we have the

14 specific questions because questions about, for example, the

15 scope of its operations may also -- I'm not saying they are,

16 but they may also be covered by secured confidentiality

17 legislation.

18 So once we know what the specific questions are, we

19 can give Mr. Pierce advice as to what his obligations are and

20 the scope of his rights to answer questions.

21 MS. DAVIS: Right. I understand that, but

22 unfortunately, the way that our process works, we don't

23 provide questions in advance. And so that's essentially what

24 you're asking is that we tell you what the questions are, and

25 then you go and figure out whether you can allow him to

1 answer the questions. And the way that the process works is

2 either Mr. Pierce objects and you instruct him not to answer

3 the question, or he answers the question. But we don't, as a

4 matter of procedure, we don't provide questions in advance

5 for purposes of our -- our testimony.

6 MR. WOODALL: Well, I'm sure the point here isn't

7 to trick him.

8 MS. DAVIS: No.

9 MR. WOODALL: The point is to get the information.

10 MS. DAVIS: That's right.

11 MR. WOODALL: So I don't see any -- I don't mean to

12 tell you how to do your business. Obviously you know it, and

13 I don't, but I don't see any problem with finding out what --

14 with him finding out what it is.

15 These matters are quite a technical nature that you

16 want to find out, and then we can determine, once we know of

17 -- two things, one is what are the answers because in some

18 cases he may simply not know the answer.

19 MS. DAVIS: Right.

20 MR. WOODALL: And in other cases it may be that

21 there are confidentiality issues, or there may not be.

22 MS. DAVIS: Right.

23 MR. WOODALL: And so if the purpose is simply to

24 get the information as accurately as possible, and in

25 accordance with his obligations, while it may be a departure

1 from your ordinary procedure, it seems to me the more  
2 practical route is to ask the questions; we can get the  
3 transcript of them, and then we can provide you with the  
4 information through Mr. Wells in due course.

5 MS. DAVIS: Right and --

6 MR. BUCHHOLZ: We would probably at that point need  
7 to call you back to -- once you've confirmed what he's  
8 allowed to provide or willing to provide, we can call him  
9 back and have testimony again.

10 MR. WOODALL: That's fine.

11 MS. DAVIS: And sounds -- and what we'd like to do  
12 is, I mean in terms of scheduling testimony in our  
13 investigations, we don't want to become a drawn-out process,  
14 just so you understand, sort of the way our process works.

15 And so if your intent is to go and figure out  
16 whether or not Mr. Pierce can answer the questions or provide  
17 the information, you know, we would expect that you would get  
18 back us within a week as opposed to within three months or  
19 something like that because we don't hold up investigations  
20 for those purposes.

21 MR. WOODALL: I appreciate that.

22 MS. DAVIS: Okay.

24 (SEC Exhibit No. 64 marked for  
25 identification.)

1 Commission?

2 MR. WELLS: Let me -- I'm not going to -- I won't  
3 -- not exactly going to object, but I'm going to ask Mr.  
4 Pierce to be careful when he answers not to disclose any of  
5 the contents of any conversation with legal counsel in Canada  
6 or the United States, but go ahead and please answer the  
7 question without referring to any specific conversation.

8 THE WITNESS: It's to do with ownership of shares.

9 BY MS. DAVIS:

10 Q What was your understanding as to why you filed the  
11 Schedule 13D?

12 A Because of the percentage of ownership combined  
13 between myself Newport and other entities.

14 Q Okay, and the shares of Lexington Resources?

15 A Correct.

16 BY MR. BUCHHOLZ:

17 Q Did you provide the factual information for the  
18 charts at Exhibit A and Exhibit B, which are at Pages BP 436  
19 and 437?

20 A Yes, I did.

21 Q Were there times in the past three years then when  
22 Newport and yourself crossed over the 5 percent threshold of  
23 ownership based on these charts; is that your understanding?

24 A That's my understanding.

25 Q Did you file any 13D filings personally at any

1 BY MR. BUCHHOLZ:

2 Q Mr. Pierce, I'm handing you a document that's been  
3 marked as Exhibit 64.

4 MR. BUCHHOLZ: Do you have copies of this, Counsel?  
5 This is the filing you indicated you think that you did.

6 MR. WELLS: I just didn't bring it up with me.

7 MR. BUCHHOLZ: I didn't make a lot of copies.

8 MR. WELLS: We're fine.

9 BY MR. BUCHHOLZ:

10 Q Okay. Exhibit 64 has pages that are Bates labeled  
11 BP 00425 through 439, and it appears to be a filing with the  
12 United States Securities and Exchange Commission on behalf of  
13 yourself and Newport Capital Corp.

14 If you can take a moment, Mr. Pierce, and look  
15 through Exhibit 64 and let me know if you recognize it?

16 A Yes, I do.

17 Q What is Exhibit 64?

18 A It's a 13D filing.

19 Q Did you make that filing?

20 A Yes, I did.

21 Q Did you also make it on behalf of Newport Capital  
22 Corp. in addition to on behalf of yourself?

23 A Yes.

24 MS. DAVIS: What is your understanding as to why  
25 you filed the Schedule 13D to the Securities and Exchange

1 other time for Lexington Resources stock ownership?

2 A No.

3 Q Didn't you file any on behalf of Newport Capital at  
4 any other time?

5 A No.

6 Q This is dated June 26, 2006; is that right?

7 That's the date on the first page, I guess, if we  
8 go to signature page, the last page, it's dated July 25,  
9 2006?

10 A Correct.

11 Q So are those your signatures on the last page?

12 A Yes, they are.

13 Q And you signed on July 25, 2006?

14 A Yes.

15 Q And on the first page where it says June 26, 2006,  
16 it says underneath that "date of event which requires filing  
17 of this statement"; do you see that?

18 A Yes, I do.

19 Q What was that event?

20 A I'm sorry. I don't understand.

21 Q What event occurred on June 26, 2006, that required  
22 filing of this 13D to your understanding?

23 MR. WELLS: Again, please take care to not disclose  
24 the contents of any conversation with any legal counsel.

25 THE WITNESS: I don't know how to answer the

<p style="text-align: right;">Page 33</p> <p>1 question. I'm sorry.</p> <p>2 BY MR. BUCHHOLZ:</p> <p>3 Q Do you have an understanding of an event that</p> <p>4 occurred on June 26, 2006, that required this filing? Just</p> <p>5 asking if you have an understanding.</p> <p>6 A Prior to that date, I came to the realization that</p> <p>7 a 13D needed to be filed.</p> <p>8 BY MS. DAVIS:</p> <p>9 Q I'm sorry. You said prior to June 26, 2006, you</p> <p>10 came to the realization that a 13D needed to be filed; is</p> <p>11 that right?</p> <p>12 A That's correct.</p> <p>13 Q Okay. When did you come to that realization?</p> <p>14 A Within the last 90 to 120 days.</p> <p>15 BY MR. BUCHHOLZ:</p> <p>16 Q Okay. Do you do work for Newport Capital from your</p> <p>17 home?</p> <p>18 A In my home in Vancouver?</p> <p>19 Q Yes.</p> <p>20 A Very rarely.</p> <p>21 Q Do you maintain an office at the 28 Rennweg,</p> <p>22 Zurich, address?</p> <p>23 A Yes, I do.</p> <p>24 Q Do you maintain offices for Newport anywhere else?</p> <p>25 A There is an office in London.</p>	<p style="text-align: right;">Page 35</p> <p>1 A Correct.</p> <p>2 Q But you don't do any direct work for any other</p> <p>3 companies or entities other than Newport?</p> <p>4 A Correct.</p> <p>5 Q Have you provided services directly to any</p> <p>6 companies other than Newport Capital in the last three years?</p> <p>7 A I don't believe so. It's all through Newport</p> <p>8 Capital.</p> <p>9 Q Are you currently an officer or director of any</p> <p>10 other companies other than Newport Capital?</p> <p>11 A Yes, I am.</p> <p>12 Q Which ones?</p> <p>13 A Full name International Market Trend AG, Parc Place</p> <p>14 Investments AG, Sparten Asset Group, Waterside Developments</p> <p>15 Cayman, in brackets, Inc.</p> <p>16 Q So after Waterside Developments, in brackets,</p> <p>17 Cayman?</p> <p>18 A Yes. Could be LTD. I'm pretty sure it's Inc., but</p> <p>19 it could be LTD.</p> <p>20 And Palm Tree Properties Cayman, in brackets, and I</p> <p>21 think it is LTD. And I'm not sure. Pierco.</p> <p>22 THE REPORTER: I'm sorry?</p> <p>23 THE WITNESS: It's called Pierco Petroleum. I was</p> <p>24 a director, so I don't know if I still am a director. So I'm</p> <p>25 just putting that out to you. That's all that comes to mind</p>
<p style="text-align: right;">Page 34</p> <p>1 Q What's the address?</p> <p>2 A I would have to get that for you. I don't use that</p> <p>3 office.</p> <p>4 Q Do you maintain offices for Newport Capital</p> <p>5 anywhere else other than the Rennweg address in Zurich?</p> <p>6 A No.</p> <p>7 Q Does Newport Capital have any other offices other</p> <p>8 than the London and the Zurich offices?</p> <p>9 A Not to my knowledge.</p> <p>10 Q Do you have a telephone number at your office in</p> <p>11 Zurich?</p> <p>12 A Yes, I do.</p> <p>13 Q Do you know it?</p> <p>14 A I'll provide it to you again. They're long</p> <p>15 numbers, that long.</p> <p>16 Q Do you maintain any other telephone numbers that</p> <p>17 you have not discussed so far related to Newport Capital?</p> <p>18 A I believe those are the only numbers Newport has.</p> <p>19 They have a number in London, and they have a number in</p> <p>20 Zurich, and of course a fax line.</p> <p>21 Q Do you currently work for any other companies or</p> <p>22 entities?</p> <p>23 A Through Newport Capital.</p> <p>24 Q So do you mean Newport Capital may act as a</p> <p>25 consultant or provider of services to other entities?</p>	<p style="text-align: right;">Page 36</p> <p>1 right now.</p> <p>2 BY MR. BUCHHOLZ:</p> <p>3 Q Those are the current ones?</p> <p>4 A I believe so.</p> <p>5 Q What positions do you hold with International</p> <p>6 Market Trend AG?</p> <p>7 A President/director. Oh, I'm sorry. There's a</p> <p>8 subsidiary of International Market Trend, which is just</p> <p>9 International Market Trend, Inc., which is a Washington</p> <p>10 corporation. So I'm a director and president of that</p> <p>11 company, as well.</p> <p>12 Q What positions do you hold at Parc Place</p> <p>13 Investments AG? And was that "Parc" with a C?</p> <p>14 A P-A-R-C, yeah.</p> <p>15 Q What positions do you hold?</p> <p>16 A President/director.</p> <p>17 Q What about Sparten Asset Group?</p> <p>18 A President, and I have been a director. I just</p> <p>19 don't know if I'm still a director.</p> <p>20 Q What about Waterside Developments?</p> <p>21 A President/director.</p> <p>22 Q Palm Tree Properties?</p> <p>23 A President/director.</p> <p>24 Q And you say you were president of Pierco?</p> <p>25 A I don't know.</p>

1 Q You were also a director at one point, and you're  
2 not sure --  
3 A I believe so, yeah. It used to be called a  
4 different name. So I know I was at one point, but I just  
5 don't know.  
6 Q What was the previous name?  
7 A Oak Hills Energy, Inc.  
8 Q Do you maintain offices for your work or  
9 affiliation with any of these companies other than Newport?  
10 A You mean actually have a physical address; is that  
11 what you mean?  
12 Q Yes, a place where you go to do work for them.  
13 A Other than -- I work out of my Swiss office.  
14 Q Is Newport involved in all of these companies that  
15 you've listed, or do you do that separately from Newport?  
16 A I guess I don't know what you mean by "involved."  
17 Q Well, earlier you said that Newport was the only  
18 company you directly provided services for, and then Newport  
19 provided services --  
20 A Right.  
21 Q -- to other companies?  
22 A Yes.  
23 Q Are these companies that Newport provides services  
24 to?  
25 A International Market Trend provided services, too.

1 Newport does consulting services, too.  
2 Q What about Parc Place?  
3 A No.  
4 Q Sparten?  
5 A No.  
6 Q Waterside Developments?  
7 A No.  
8 Q Palm Tree Properties?  
9 A No.  
10 Q Pierco or Oak Hills?  
11 A I believe so.  
12 Q With which institutions do you currently hold  
13 brokerage accounts?  
14 A I only have one brokerage account with the Hypo  
15 Bank. I used to have another one, but they shut it down when  
16 you guys started your investigation.  
17 Q Which institution was that one?  
18 A Piper Jaffray.  
19 Q With which branch of Piper did you have an account?  
20 A It was in the state of Washington. They had moved,  
21 so I couldn't -- I can't remember exactly where.  
22 Q With which branch of Hypo Bank do you have an  
23 account?  
24 A The bank in Liechtenstein.  
25 Q Do you have a broker or a person you work with at

1 Hypo Bank in Liechtenstein?  
2 MR. WELLS: We run into the same problem. We're  
3 talking about Switzerland and disclosure now, and that makes  
4 me nervous. I'm sure it makes Mr. Woodall even more nervous.  
5 MR. WOODALL: So just making a note there. I  
6 missed the last question.  
7 MS. DAVIS: The name of his broker or the person he  
8 works with for his Hypo Bank account Liechtenstein.  
9 MR. WOODALL: Yeah. I think the same potential  
10 foreign confidentiality law concerns arise, but the request  
11 for that information is on the record.  
12 MR. WELLS: As you can see from Mr. Pierce's  
13 production, he is providing information from foreign  
14 jurisdictions about himself. That he can do, but it's a much  
15 riskier proposition to provide information about other  
16 people. So that's the problem we run into with these  
17 questions.  
18 MS. DAVIS: Like knowing who his banker is or  
19 broker is in Liechtenstein?  
20 MR. WELLS: We're -- you know, I'm not a Swiss  
21 lawyer. I don't think any of us in this room is a Swiss  
22 lawyer, a Liechtenstein lawyer, a Belize lawyer, or a Grand  
23 Turks and Caicos lawyer, et cetera, but we've all read  
24 articles that disclosure laws that don't seem to work the way  
25 we would expect them to in the US.

1 BY MR. BUCHHOLZ:  
2 Q Mr. Pierce, did you open the accounts with Hypo  
3 Bank in Liechtenstein?  
4 A Yes, I did.  
5 Q When?  
6 A It'll be concurrent with the documents I provided.  
7 I just don't remember exactly.  
8 Q So roughly 2003?  
9 A That sounds about right. Yeah.  
10 Q Why did you open the brokerage account in  
11 Liechtenstein?  
12 A Because I spend a majority of my time in Europe.  
13 Q Do you have any brokerage accounts in Canada?  
14 A No.  
15 Q When did you last have brokerage accounts in  
16 Canada?  
17 A 20 years ago.  
18 Q Was there something about Liechtenstein that you  
19 thought made it an attractive jurisdiction for you to have a  
20 brokerage account in?  
21 A The reason that I decided to deal with that  
22 institution is because a lot of the companies that I  
23 personally invest in trade on foreign exchanges, and they  
24 facilitate that.  
25 Q Did any business partner or colleague tell you

1 about Hypo Bank in Liechtenstein as a place where you could  
2 have a brokerage account?

3 A I can't recall how it came to be.

4 Q Have you ever worked for Hypo Bank in any capacity?

5 A No.

6 (SEC Exhibit No. 65 marked for  
7 identification.)

8 Q Mr. Pierce, I'm handing you a document that's been  
9 marked as Exhibit 65. It is a collection of certain portions  
10 of the records that you produced to us from what appears to  
11 be your account at Hypo Bank. The pages have Bates numbers  
12 in the lower right-hand corner, or left-hand corner,  
13 depending on how you look at it.

14 BP 00267 is the first page. BP 00335 is the last  
15 page, but for the record, the -- all the pages are not  
16 included. I only included certain pages.

17 If you could just take a moment and look through  
18 that and let me if those appear to be records from your Hypo  
19 Bank account that you produced to the SEC.

20 A They all appear to have my account number on them.

21 Q Which is your account number?

22 A [REDACTED] That's how I recognize it.

23 Q So after the 10 decimal?

24 A Yeah.

25 Q [REDACTED]

1 As an example, if you'll look at the Exhibit 65, I  
2 don't -- I don't think you'll even see Mr. Pierce's name on  
3 here anywhere. I think there's just a number. There's not  
4 the name of any individual from Hypo Bank who might help him  
5 service the account.

6 So, again, I think we may be running into territory  
7 where Mr. Pierce may get in trouble under some foreign  
8 jurisdiction law by answering a question that he would  
9 otherwise be safe in answering in our jurisdiction.

10 MR. WOODALL: One of the -- one of the concerns I  
11 have with the form of the question is it is unclear whether  
12 you are asking him whether he has authority regarding  
13 accounts in his own name, or whether you're asking whether he  
14 has authority to exercise accounts in other people's names,  
15 and it's the -- it's the latter that gives me the greater  
16 concern because the question could include, for example, that  
17 he has authority to -- to deal in the account -- in the  
18 accounts in the names of -- and beneficial ownership of  
19 persons other than himself, and that's the area of the  
20 foreign confidentiality law that I'm talking about.

21 MR. WELLS: Just to clarify, I hate to keep going  
22 on because I know you need to move on with your questioning,  
23 but it is a matter of public record that Mr. Pierce has  
24 trading authority for the entities mentioned in the 13D  
25 report. It is not a matter of record where those entities

1 A Yes.

2 Q Is this account in your name?

3 A Yes.

4 Q Do you just have one account?

5 A Yes. Well, there's actually a US dollar account  
6 and a Euro account.

7 Q Right.

8 A But it's the same account number.

9 Q Right. So if we look at the first page and the  
10 second page, one has a USD suffix and one has a UR suffix?

11 A Yes.

12 Q But those are just two different currency  
13 denominations in your [REDACTED] account?

14 A That's correct, yeah.

15 Q Does anyone else have authority to trade in your  
16 Hypo Bank account?

17 A No.

18 Q Do you have authority to trade in any other Hypo  
19 Bank accounts?

20 MR. WELLS: Well, I'm a little concerned, again,  
21 that while it seems -- that seems like a very innocuous  
22 question in our jurisdiction, we're talking about I think a  
23 Liechtenstein or Hypo Bank account, which could be in  
24 Switzerland, Liechtenstein, or some other jurisdiction where  
25 identities are kept highly secret.

1 have chosen to locate their -- the accounts referenced or any  
2 other details about those accounts.

3 MR. BUCHHOLZ: My concern is that it seems like  
4 it's Mr. Pierce's privacy. I'm only asking if he himself  
5 trades. I asked whether he has authority to trade, but I'll  
6 ask him again, and you can object again if you feel it's  
7 necessary.

8 BY MR. BUCHHOLZ:

9 Q Do you conduct trades?

10 MR. WELLS: Yes. If you change the question, and  
11 maybe that was the problem, that -- my concern about the form  
12 of the question was that it included within the question  
13 where the other entity's bank account was located.  
14 For example, I think you asked "do you have  
15 authority to trade for any other entity in a Hypo Bank  
16 account somewhere." Even whether it was a Hypo Bank account  
17 or not, it could be a problematic disclosure in another  
18 jurisdiction.

19 MS. DAVIS: I guess I don't understand the -- reask  
20 the question about him trading.

21 BY MR. BUCHHOLZ:

22 Q Do you conduct trades at Hypo Bank for other  
23 accounts other than the one you've identify in your name?

24 MR. WELLS: That is precisely the -- oh, the  
25 interpretation of the question of your last question that I



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<p>1 was worried about because if he answers that question, then  2 he discloses whether or not other entities like the ones  3 mentioned in the 13D have accounts at Hypo Bank, as opposed  4 to some other bank, and that could be a problematic  5 disclosure under Swiss or Liechtenstein or some other law.  6 MS. DAVIS: Right. The fact that whether not he  7 has the authority to trade in anyone else's name --  8 MR. WELLS: That's a problem.  9 MS. DAVIS: Is not -- it's not an issue. I think  10 your concern is asking him whose name.  11 MR. WELLS: No. My concern is asking which bank  12 these other entities use and that --  13 MS. DAVIS: We haven't even gotten to the other  14 entity. We were simply asking does he trade or have the  15 authority to trade in the name of anyone else.  16 MR. WELLS: But that's fine as long as you don't  17 restrict it to Hypo Bank.  18 MR. BUCHHOLZ: Okay. So your objection is  19 identifying whether or not their accounts are at Hypo Bank?  20 MR. WELLS: Correct. I'm scared of Swiss law, I  21 have to tell you. It's counterintuitive to our  22 understanding.  23 MS. DAVIS: Right, though we're talking about US  24 laws here, any trading that he's conducted on behalf of  25 foreign securities that trade on the US markets.</p>	<p>1 Switzerland, at a bank that I wouldn't be able to pronounce  2 or even get close to, and I can't remember the name of it. I  3 never use it for anything. More than happy to get you the  4 information.  5 Q The CIBC account, is that joint with your wife?  6 A Correct, yeah.  7 Q Are the other ones all in your name?  8 A I think the Bank of Montreal is a joint account,  9 but I'm not sure. She has her own account, so I just don't  10 know if she's on my account. And the other ones I'm on,  11 myself. Other than the Cayman Bank, she's on that, as well.  12 Sorry.  13 Q So your name is on all of them and the -- for a few  14 of them your wife may also be?  15 A Yes.  16 Q Okay. Are there any other bank accounts that you  17 have had that closed in the last three years?  18 A Oh, actually I have a US bank account at US Bank,  19 but I don't use it, but I still get statements though, and  20 that's US Bank in Blaine, Washington. I just can't think of  21 anything else. Oh, I had a line -- well, I don't know  22 whether it's the same thing, but I mean I have an account, I  23 guess, with the Toronto Dominion Bank in Canada, but it's --  24 it's a line of credit account. So it's kinds of different,  25 so, and that's joint.</p>
<p>1 MR. WELLS: That's fine.  2 MS. DAVIS: So we are concerned about any trading  3 that he does on behalf other individuals in US securities,  4 US-traded securities. And so whether it's in Liechtenstein  5 or Belize or wherever it is, if he's trading in the  6 securities of a stock that's traded on the US stock market,  7 and that is -- and that's registered with the Securities and  8 Exchange Commission, we're entitled to know that information,  9 and that's what we're asking.  10 So to the extent it has to do with just random  11 trading, we're not asking that, but I think we're entitled to  12 ask you, first of all, do you trade on behalf of any other  13 individuals or have the authority to trade on behalf of any  14 other individuals?  15 MR. WELLS: That's fine. No objection.  16 THE WITNESS: Individuals, I don't believe so.  17 MS. DAVIS: Okay.  18 BY MR. BUCHHOLZ:  19 Q What about entities?  20 A Yes.  21 Q Where do you currently hold bank accounts?  22 A The Hypo Bank, the Bank of America, the Bank of  23 Montreal in Canada. I have a joint account at the Bank of  24 Commerce in Canada. I have a bank account in the Cayman  25 Islands at Cayman National Bank, and I have a bank account in</p>	<p>1 Q Do you use that currently?  2 A I have a line of credit, yes.  3 Q Any other accounts in the last three years?  4 A I think that covers it.  5 Q Are there any other accounts where you're a  6 custodian for anyone else or anything like that?  7 MR. WOODALL: Custodian issue, phrased as broadly  8 as you have, raises the confidentiality issues that we're  9 concerned about.  10 MS. DAVIS: Okay. Well, can you answer the  11 question "yes" or "no"? If answer's "no" then --  12 THE WITNESS: I guess I'm not understanding what  13 "custodian" means. Sorry, but what do you mean by custodian?  14 BY MR. BUCHHOLZ:  15 Q Do you have authorization to conduct transactions  16 on any other accounts?  17 A Like on corporations, you mean?  18 Q Yes, or other individuals?  19 A Nobody. No other individuals.  20 Q Okay. But corporations?  21 A Yeah, yes.  22 Q Are you the beneficiary of a trust in any  23 jurisdiction that holds ownership interest and assets?  24 A No.  25 Q Have you ever been?</p>

1 A Not to my knowledge.  
 2 MR. BUCHHOLZ: I think now is probably a pretty  
 3 good time for a short break. Why don't we take a ten-minute  
 4 break and go off the record at 9:55 a.m.  
 5 (Recess 9:55 to 10:05 a.m.)  
 6 BY MR. BUCHHOLZ:  
 7 Q Back on the record at 10:05 a.m. And this is  
 8 something we confirm everyone time we go off the record: Mr.  
 9 Pierce, is it correct that the staff did not discuss this  
 10 case with you, other than discussing potential time for  
 11 breaks later today while we were off the record?  
 12 A I'm sorry. I must have --  
 13 Q Just to make sure that we confirm that we didn't  
 14 have substantive discussions while we were off the record.  
 15 A Correct, yes.  
 16 Q We had a discussion about when we might take  
 17 breaks, but we didn't have any other substantive discussions  
 18 about the case; is that correct?  
 19 A Correct, yes.  
 20 Q Okay. Thank you. All right. Earlier you said  
 21 that one of the companies that you are, I believe, president  
 22 and director for is International Market Trend AG; is that  
 23 right?  
 24 A Correct.  
 25 Q What does International Market Trend AG do?

1 A Provides investor relation services, telephone  
 2 answering, and other services for public companies in Europe.  
 3 Q What other services, other than telephone  
 4 answering, would be included in investor relations services  
 5 to your understanding?  
 6 A Sending out materials to investors that call in  
 7 that are provided by the company.  
 8 Q Does it include sending materials to potential  
 9 investors?  
 10 A Correct.  
 11 Q Anything else that you consider to be included in  
 12 investor relation services?  
 13 A It arranges road shows, presentations for the  
 14 company.  
 15 Q What is your understanding of road shows in that  
 16 context?  
 17 A Setting up a luncheon, for instance, where  
 18 potential investors and banks and other people attend.  
 19 Q Anything else that you would consider to be  
 20 included in investor relations?  
 21 A Pretty much the primary function.  
 22 MS. DAVIS: And you said that was for Europe,  
 23 right, for IMT AG?  
 24 THE WITNESS: That's the Swiss company, yes.  
 25 BY MR. BUCHHOLZ:

1 Q How long have you been affiliated with IMT AG?  
 2 A Since its incorporation.  
 3 Q About when was that?  
 4 A I believe three years ago, four years ago. Again,  
 5 I don't have the dates in my head.  
 6 Q Were you a founder of IMT AG?  
 7 A I was instrumental in setting up the company.  
 8 Q Was anyone else involved with you in terms of the  
 9 founding of the company?  
 10 MR. WELLS: If you can answer, again --  
 11 BY MR. BUCHHOLZ:  
 12 Q If you can answer without giving names first, and  
 13 the question was anyone else?  
 14 A I guess I don't really understand the question  
 15 because it's a little bit broad. So I mean when you -- what  
 16 do you -- what do you really -- what are you really asking, I  
 17 guess?  
 18 Q Well, you said you were instrumental in setting it  
 19 up?  
 20 A Yes.  
 21 Q So I'm just trying to find out if there --  
 22 (Simultaneous discussion.)  
 23 A -- discussions with people and that sort of thing,  
 24 is that what you mean? Or I -- that's what I'm saying I  
 25 don't really understand.

1 Q Well, I guess by "instrumental," it was primarily  
 2 you?  
 3 A Correct. So that's why I get confused a little  
 4 bit.  
 5 Q All right. That's fine.  
 6 Had you previously been involved in a company that  
 7 provided investor relation services in Europe?  
 8 A Well, Newport, Newport Capital. There is an  
 9 overlap. It does provide services, as well.  
 10 Q What about other than Newport Capital?  
 11 A In Europe, not that I can think of in Europe, other  
 12 than Newport Capital, so.  
 13 Q What was the reason for setting up IMT AG as a  
 14 different entity from Newport Capital?  
 15 A Because IMT has direct relationships via its  
 16 subsidiary with public companies in the US.  
 17 BY MS. DAVIS:  
 18 Q What does that mean?  
 19 A Well, through its -- IMT AG through its subsidiary,  
 20 International Market Trend, it has consulting agreements and  
 21 agreements with public companies. Whereas prior to that,  
 22 Newport didn't have direct relationships with the public  
 23 companies. If any of that makes sense.  
 24 BY MR. BUCHHOLZ:  
 25 Q This subsidiary you're referring to is IMT, Inc.?

1 A Yes.  
 2 Q Does IMT AG have any other subsidiaries?  
 3 A No.  
 4 Q Was IMT, Inc., set up shortly after IMT AG was  
 5 formed?  
 6 A Within a short period of time.  
 7 Q Just to clarify, did you say that Newport Capital  
 8 did not directly contract with US public companies to provide  
 9 services?  
 10 A I don't believe it had like a consulting agreement  
 11 directly with public companies. Now, I could be wrong about  
 12 that, but I don't think so. It had a consulting agreement  
 13 with a prior company, prior investor relations company, so.  
 14 Q Which company was that?  
 15 A ICI.  
 16 Q What does that stand for?  
 17 A Investor Communications International, Inc.  
 18 Q So before IMT, Inc., ICI, I think, was the company  
 19 that Newport Capital would contract with for services to  
 20 public companies in the US?  
 21 A Correct. It was ICI that had the contract with the  
 22 public companies.  
 23 Q Did you hold positions with ICI?  
 24 A Somewhere along the line I did. I wouldn't be able  
 25 to give you the time frame, but I did.

1 Q What positions did you hold with ICI?  
 2 A I'm not really sure, but I believe I might have  
 3 been president for a short period of time during a lawsuit  
 4 that was going on. I was either president or director. I  
 5 just don't remember.  
 6 Q ICI was a US company?  
 7 A Yeah, I believe.  
 8 Q Who were the other officers and directors of ICI?  
 9 A The only one that comes to mind is Markus Johnson,  
 10 and there could have been others. I just don't remember.  
 11 Q Did you form ICI, Inc.?  
 12 A I don't remember. It is possible. I just don't  
 13 remember. Just being --  
 14 Q Returning to IMT, Inc. -- well, let's actually go  
 15 with IMT AG first.  
 16 Do you provide services to public companies in  
 17 Europe through IMT AG?  
 18 A Yes.  
 19 Q You personally?  
 20 A Yes.  
 21 Q Do you have an employment agreement or consulting  
 22 agreement with IMT AG?  
 23 A No.  
 24 Q Do you have any type of agreement that documents  
 25 the services you provide for IMT AG?

1 A No.  
 2 Q What services do you provide to public companies in  
 3 Europe through IMT AG?  
 4 A All of the services I described that IMT AG does,  
 5 plus financing, plus project development looking for new  
 6 activities for the company, that type of thing.  
 7 Q How many people approximately provide services to  
 8 public companies in Europe through IMT AG?  
 9 A Are you looking for a number, or are you --  
 10 Q Yes, approximately.  
 11 A As far as employees or consultants, or what are you  
 12 looking for?  
 13 Q Right. Whichever they are.  
 14 A Currently there's only one employee. Starting in  
 15 September, I should say. We used to have one employee that  
 16 hasn't worked for the company for about, I don't know, a  
 17 year. She was basically the office manager. We have a new  
 18 office manager in September. So that's the only employee of  
 19 the company. The rest are consultants like Newport Capital.  
 20 Q About how many consultants provide services to  
 21 companies through IMT AG?  
 22 A I really -- I mean three or four probably on a  
 23 continual basis.  
 24 Q Do you have an ownership interest in IMT AG?  
 25 MR. WELLS: Object to the form of the question to

1 the extent it calls for a legal conclusion, but I'll ask Mr.  
 2 Pierce to give you his best understanding of that.  
 3 THE WITNESS: No.  
 4 BY MR. BUCHHOLZ:  
 5 Q Do you receive a salary from IMT AG?  
 6 A No.  
 7 Q Do you receive any compensation for your services  
 8 to IMT AG?  
 9 A Through Newport Capital.  
 10 Q Who owns IMT AG?  
 11 MR. WOODALL: It's an area where confidentiality  
 12 concerns, and again, perhaps I'm entrenching on Mr. Wells's  
 13 ground here, but it also strikes me as at least questionable  
 14 whether it's within -- whether it's relevant to the  
 15 investigation.  
 16 What you're talking about here is trading in US  
 17 securities, which is a different thing than ownership of a  
 18 company in a foreign jurisdiction, which he -- you know that  
 19 Mr. Pierce is not the owner. He's already told you that. So  
 20 you're talking about other owners, other people's business  
 21 interests, and that's of concern, but I leave that to Mr.  
 22 Wells.  
 23 MR. WELLS: And I join in the objection as it  
 24 relates to potentially encroaching on foreign law to identify  
 25 an owner of a business that's already been identified as one

<p style="text-align: right;">Page 57</p> <p>1 subject to foreign laws.  2 BY MR. BUCHHOLZ:  3 Q Mr. Pierce, did IMT AG contract with Lexington  4 Resources to provide consulting services when Lexington was a  5 public company in the US?  6 A I believe so. It's either IMT AG or IMT, Inc. So  7 just my --  8 (SEC Exhibit No. 66 marked for  9 identification.)  10 Q I'm handing you what's been marked as Exhibit 66.  11 The pages are labeled at the lower right corner IMT 54  12 through 58. The top of the first page says "Financial  13 Consulting Services Agreement," and it appears to be dated  14 November 10, 2003, between International Market Trend AG and  15 Lexington Resources, Inc.  16 If you can take a moment to look through Exhibit 66  17 and let know if you recognize it or not?  18 A Yes.  19 Q If you can say that again?  20 A Yes, I recognize this.  21 Q What is Exhibit 66?  22 A It's a consulting services agreement between IMT AG  23 and Lexington.  24 Q It appears to be signed on behalf of IMT AG by  25 Richard Elliot-Square on the last page?</p>	<p style="text-align: right;">Page 59</p> <p>1 Q Is Mr. Elliot-Square a director or officer of IMT  2 AG?  3 A I don't believe so.  4 Q As of November 10, 2003, were you the president and  5 a director of IMT AG?  6 A I do believe so, yes.  7 Q Why did Mr. Elliot-Square sign this consulting  8 services agreement between IMT AG and Lexington Resources?  9 A He was providing services to IMT at the time, and  10 he was probably present, and I wasn't at the time. So I'm  11 sure that's the reason.  12 Q Did he have approval to sign this agreement on  13 behalf of IMT AG?  14 A Yes.  15 Q Is he an officer or director of IMT, Inc.?  16 A No.  17 BY MS. DAVIS:  18 Q Has Mr. Elliot-Square ever been an officer or  19 director of IMT, Inc.?  20 A Not to my recollection.  21 BY MR. BUCHHOLZ:  22 Q Has Mr. Elliot-Square provided services to  23 Lexington Resources pursuant to the financial consulting  24 services agreement that is Exhibit 66?  25 A Back in the very beginning stages, I believe he</p>
<p style="text-align: right;">Page 58</p> <p>1 A Correct.  2 Q Do you recognize that as his signature on Page IMT  3 58?  4 A I've seen it before. So I assume that's his  5 signature.  6 Q Who is Richard Elliot-Square?  7 A Business associate of mine.  8 Q How long have you known him?  9 A Eight to ten years, I believe.  10 Q How did you meet him?  11 A I believe I met him through getting a Frankfurt  12 listing for a public company eight or ten years ago. And  13 time frames, I'm just not sure. Quite a while ago.  14 Q Getting a Frankfurt listing for a US --  15 A For getting a US public company listed on the  16 Frankfurt exchange.  17 Q What's the name of that company?  18 A I believe it was Vega-Atlantic Corporation. I  19 could be wrong.  20 Q V-E-G-A?  21 A Yes.  22 Q Did someone introduce you or put you in touch with  23 Mr. Elliot-Square?  24 A Yes, but I couldn't begin to remember who that  25 would have been.</p>	<p style="text-align: right;">Page 60</p> <p>1 did, yes.  2 Q So what would that time frame be roughly?  3 A Probably around when this agreement was signed. He  4 was consulting to IMT AG at the time.  5 Q And did he provide services to Lexington Resources  6 through IMT AG?  7 A Yes.  8 Q You are the president and a director of IMT, Inc.,  9 right?  10 A I believe so, yes.  11 Q Did you found IMT, Inc.?  12 A It was a subsidiary of AG. Yeah.  13 Q Did you instruct someone to set it up?  14 A Yes.  15 Q Who did you instruct?  16 A I don't know who incorporated it, what law firm  17 incorporated it. I don't remember.  18 Q Were the -- who are the other officers and  19 directors of IMT, Inc.?  20 A I'm not sure. I think Stephanie Ebert is a  21 secretary of the company. But other than that, I'm really  22 not sure.  23 Q By "secretary," you mean a corporate secretary?  24 A Yes.  25 BY MS. DAVIS:</p>

1 of America.

2 Q Do you have a computer that you use at IMT's  
3 offices?

4 A I have never used a computer in IMT's offices.

5 Q Does IMT have an IT consultant or someone that  
6 helps them with computers?

7 A I believe so, yes. I don't know the guy's name.

8 Stephanie would be able to tell you.

9 Q Have any documents that we requested in the  
10 subpoena been withheld, aside from objections your counsel  
11 has raised, or privilege assertions by your counsel?

12 A Other than what's outlined in here, for example?

13 Q Yes.

14 A No.

15 Q And again, other than --

16 A Concerning myself. I want to be clear about that.  
17 I mean as I didn't -- as I said earlier, I haven't provided  
18 documents for Newport, so.

19 Q Right.

20 A So if we're talking about Brent --

21 Q We should --

22 A Yeah.

23 Q -- we should set out -- set out Newport is an  
24 exception, as well. Okay.

25 Other than that, you're not aware of any documents

1 that have been produced?

2 A No. There's nothing.

3 Q Have any documents that we requested been lost,  
4 altered, or disposed of in any fashion?

5 A Not to my knowledge.

6 Q Did anyone help you search your personal files for  
7 responsive documents?

8 A No. There is one exception to that, which is my  
9 Daytimer, which I had mentioned to my counsel, for the first  
10 six months of this year, when I moved, I only have the --  
11 from -- I take out the front pages because the book's too  
12 thick otherwise. And when I moved, I haven't been able to  
13 find them, but I think they're around somewhere. I just  
14 haven't got there yet.

15 But other than that, that might be the only thing  
16 that has notations as far as meetings and things like that,  
17 but that's the extent of it. It's not a very detailed  
18 Daytimer. I work pretty much out of my head, so.

19 Q And if you find -- or when you find those you'll --

20 A I'll be more than happy to present them.

21 Q Appreciate that.

22 Now, returning to some of the other companies that  
23 you said earlier that you serve as director or officer of,  
24 what is Sparten Asset Group?

25 A It's a Belize corporation.

1 Q What does it do?

2 A Primarily invests in different public companies.

3 Q Who are the other directors of Sparten Asset Group?

4 MR. WELLS: Are we going to run into a problem? I

5 think the -- Mr. Pierce just testified it's a Belize company,

6 and I think we've come across that problem before. We don't  
7 know the law of Belize any more than we do Liechtenstein or  
8 Switzerland or Turks and Caicos and Cayman.

9 And so I think I would defer to counsel from

10 Vancouver that some sort of study be undertaken before Mr.

11 Pierce risks disclosing that information and violating some  
12 foreign law.

13 MR. BUCHHOLZ: But I thought -- I mean he's already

14 disclosed with regard to Newport, which is a Belize company,  
15 right, who the directors are? Is there any problem with

16 doing that?

17 THE WITNESS: I put it in my 13D.

18 MR. WOODALL: Just check, make sure what's been

19 disclosed. Keep it a safe disclosure.

20 MR. WELLS: Well, to the extent it's been

21 disclosed, obviously I withdraw the objection.

22 MR. WOODALL: I don't think the --

23 MR. WELLS: If the director is not the problem and

24 the owners are a problem, maybe that's where we have to begin  
25 to raise this concern.

1 THE WITNESS: As far as in the 13D, basically this  
2 states that I share dispositive power of Sparten.

3 BY MR. BUCHHOLZ:

4 Q Did the board of Sparten grant you dispositive  
5 power over the shares?

6 A No.

7 Q How did you get it?

8 MR. WOODALL: This I think is in the area of  
9 concern about foreign disclosure laws. It wasn't the board.  
10 The question is obviously how -- who was it, and that leads  
11 into areas that I'm concerned we are not fully able to advise  
12 Mr. Pierce about concerning the applicable foreign  
13 confidentiality. And again, not to say that we won't answer  
14 the question, we just need to know what the questions are so  
15 we can determine what he can answer.

16 BY MR. BUCHHOLZ:

17 Q So you said that Sparten Asset Group specifically  
18 invests in US public companies?

19 A Correct, yes.

20 Q Have you traded US public company securities on  
21 behalf of Sparten Asset Group?

22 A Yes.

23 MR. BUCHHOLZ: It's our position that a company  
24 that trades US securities, and that he's traded US public  
25 securities for, needs to be identified to the Securities and

1 Exchange Commission, and I guess if you want to instruct him  
2 not to answer, I think what -- we're going to need you to do  
3 that.

4 MR. WELLS: What I think might cure the problem is  
5 if Mr. Pierce first simply disclosed generically the source  
6 of his authority without disclosing the identity of any  
7 person or that person's status of an owner, if that person  
8 were an owner and that were the source.

9 I'm just sitting here thinking. I don't want to  
10 coach, so I have to be careful, but if he's on officer or  
11 director of Sparten, which I think is disclosed, then perhaps  
12 the authority simply came from natural corporate powers to  
13 act. But I would ask Mr. Pierce to answer the question  
14 starting with, at this point at least, starting with the  
15 basis for his authority as he understands it, not speaking as  
16 a whole -- or licensed in a foreign jurisdiction.

17 Did you follow that? I'm just asking you to go  
18 ahead and disclose to the SEC to the extent you think you're  
19 allowed to why you thought you were allowed by Sparten to  
20 trade Lexington securities for Sparten's account without  
21 identifying any individual.

22 In other words, what was the source of your power?  
23 Was it because you were a clerk, was it because you were an  
24 officer or director? Or what was -- what was the reason that  
25 you were allowed to trade Lexington stock for Sparten's

1 account?

2 THE WITNESS: Because I was an officer and  
3 director.

4 BY MR. BUCHHOLZ:

5 Q Did you trade Lexington stock for Sparten accounts  
6 in the US at brokerages in the US?

7 A Yes.

8 Q At which brokerages?

9 A Only one. Trying to think of the name. Peacock  
10 Hislop.

11 MR. WELLS: It's got to be from the Southeast.

12 BY MR. BUCHHOLZ:

13 Q Can you spell it to the best of your --

14 A Well, Peacock, and then Hislop I believe is  
15 H-I-S-L-O-P. And there's more to the name, but we wouldn't  
16 want to try to remember the rest.

17 Q Okay. Now, not just Lexington, but other US public  
18 company securities, have you traded for the accounts of  
19 Sparten at any other brokerage accounts in the US?

20 MR. WELLS: Well, I hate to confer with the witness  
21 while there's a question pending, and I won't do it, but  
22 otherwise I would object to the scope of the question  
23 apparently going beyond the formal authority and the limited  
24 purposes for which Mr. Pierce has consented to the  
25 jurisdiction of the SEC subpoena, but I can confer with him.

1 I mean if the answer is going to be no, then the problem goes  
2 away.

3 MR. BUCHHOLZ: Well -- and our position definitely  
4 would be that -- I'll allow you to confer with him  
5 definitely, but I do want to make it clear, and if you need  
6 to confer with him, as well, I mean we view investigative  
7 testimony as quite broad.

8 MR. WELLS: I'm one step premature because if the  
9 answer is "yes" or "no," he should go ahead and answer that  
10 question before I raise this objection.

11 THE WITNESS: Can you reask the question?

12 BY MR. BUCHHOLZ:

13 Q Yes. Have you traded US public company securities  
14 for the accounts of Sparten Asset Group at any other  
15 brokerage accounts in the US other than Peacock Hislop?

16 MR. WELLS: I misunderstood the question. Sorry.

17 THE WITNESS: Not to my knowledge. I don't  
18 remember anything else.

19 BY MR. BUCHHOLZ:

20 Q And I don't know if this will garner an objection  
21 or not, but have you traded US public company securities for  
22 the accounts of Sparten Asset Group at brokerages or with  
23 brokerage accounts outside the US? And that's just a "yes"  
24 or "no" question.

25 A Are you asking me?

1 Q Yes.

2 A No.

3 Q Were you involved in forming Sparten Asset Group?

4 MR. WELLS: That's a "yes" or "no" question, so I  
5 would have no objection to that.

6 THE WITNESS: Yes.

7 BY MR. BUCHHOLZ:

8 Q Were others involved in forming Sparten Asset  
9 Group?

10 A Yes.

11 Q When was it formed?

12 A I'm not really sure. Seven or eight years, I  
13 think. Just not really sure.

14 Q Are there other individuals or entities that you  
15 are willing to identify as being involved in forming Sparten  
16 Asset Group?

17 A Not at this point.

18 Q How many others are there, entities or individuals?

19 MR. WELLS: That could be tricky, as well. I mean  
20 we run into the same problem. We don't know if identifying  
21 the number of principals in some foreign jurisdiction  
22 violates that foreign jurisdiction's confidentiality laws.

23 MR. WOODALL: I'm going to make the same point.

24 BY MR. BUCHHOLZ: I think we may need to get Belize on  
25 the phone.

1 Q So how much of Pierco, then Oak Hills Energy, did  
2 Newport own?

3 A I believe over 50 percent, but I'm not 100 percent  
4 sure.

5 Q Other than that, are any of the Newport  
6 subsidiaries in the US?

7 A No.

8 Q Do you have an ownership stake of any kind in  
9 Newport Capital Corp.?

10 A No.

11 Q Neither directly or indirectly through other  
12 entities?

13 A Correct.

14 Q Are there any individuals or entities who have  
15 ownership stakes in Newport Capital Corp. that you are  
16 willing to disclose?

17 A Not at this time.

18 Q No US citizens or Canadian citizens?

19 MR. WOODALL: Well, I'm just -- I think the  
20 question at this time is as far as he can go at this time.

21 MR. BUCHHOLZ: I'm just having trouble getting my  
22 hands how around a US entity or a US citizen would -- how  
23 there wouldn't be any type of issue with you disclosing their  
24 ownership in a company that's obviously owning US securities  
25 and disclosing its ownership now in a 13D?

1 MR. WOODALL: Well, we just don't know. That's the  
2 problem. I mean under -- the fact that a US or any national  
3 owns a portion of a company under foreign laws doesn't  
4 automatically trump the confidentiality provisions of that  
5 foreign law. It might. To my mind, I don't see that the  
6 nationality of the owner would automatic -- automatically the  
7 case that the nationality of the owner would trump the  
8 confidentiality of the foreign jurisdiction.

9 MR. WELLS: If I could confer with the witness as  
10 to any US resident persons, perhaps the disclosure could be  
11 made after gaining the consent of that person.

12 MR. BUCHHOLZ: Well, our position would that we are  
13 entitled to know US citizens, and possibly even people from  
14 other countries. I understand that there's the standing  
15 objection on that, but I guess a US citizen who obviously has  
16 an ownership interest, a beneficial interest in an entity  
17 that's purchasing US public company securities, I think we --  
18 if you want to instruct him not to answer, but I think we  
19 want to make that request. We think we're entitled to that  
20 information.

21 MR. WELLS: I would only instruct him not to answer  
22 provisionally until I could ascertain whether, number one,  
23 there was a US citizen that might come within the scope of  
24 the response. And number two, if so, whether we could, Mr.  
25 Pierce through counsel, could contact that person and obtain

1 consent before you complete your testimony taking today or  
2 tomorrow.

3 MR. BUCHHOLZ: Okay. I'd appreciate it. If you  
4 could do that, That would be helpful.

5 MR. WELLS: Could you give me just a second to  
6 confer with the witness?

7 MR. BUCHHOLZ: Yes, or if when we take a break, if  
8 you -- or this evening, since we're coming back tomorrow  
9 morning.

10 MR. WELLS: If we could take a break now, it might  
11 be a good time because we're at 4:00. We've been going for  
12 an hour and a half --

13 MR. BUCHHOLZ: That sounds good.

14 MR. WELLS: -- and we may come back on the record  
15 and say, whoops, there isn't anybody.

16 MR. BUCHHOLZ: Okay. Let's take a break and go off  
17 the record at 4:00 p.m.

18 (Recess 4:00 to 4:14 p.m.)

19 BY MR. BUCHHOLZ:

20 Q Back on the record at 4:14 p.m.

21 Mr. Pierce, did we discuss this case while we were  
22 off the record?

23 A No.

24 MR. WELLS: Well, we did -- off the record I did  
25 mention very briefly that when we came back on the record Mr.

1 Pierce would make a statement about the ownership of Newport  
2 that, as I understand it, derives from a public filing.

3 THE WITNESS: I believe there's been public filings  
4 as to the shareholder of Newport Capital, which is Emerald  
5 Trust. So I believe it's in the court of public filings, and  
6 there is no Americans involved in the company, as far as  
7 ownership.

8 BY MR. BUCHHOLZ:

9 Q And by Americans, you mean companies or  
10 individuals?

11 A Correct, directly or indirectly or anyone.

12 Q If you could find Exhibit 74 that we marked  
13 earlier, so this was the series of letters with instructions  
14 between Mr. Atkins and Mr. Stevens in connection with a grant  
15 between Lexington and IMT AG, and it looks like the second  
16 page, IMT 96, is an instruction to take the 350,000 shares  
17 that were issued to you and transfer them to Newport; is that  
18 right?

19 A Yes.

20 Q And then the next two pages appear to be a letter,  
21 this is dated a day later, November 25, 2003, where Mr.  
22 Atkins is instructing Mr. Stevens to cancel the 350,000  
23 shares certificate for Newport and issue the shares to a  
24 variety of people, do you see that, people or companies?

25 A Yes.

1 Q Did you give Mr. Atkins the instructions as to this  
2 breakdown of the 350,000 shares of the further issuance to  
3 others?  
4 A Yes.  
5 Q How were the amounts determined?  
6 A By myself.  
7 Q Mr. Atkins wasn't involved in the determination of  
8 who got these shares?  
9 A No.  
10 Q Was anyone else at Newport involved in the  
11 determination of who would get which shares from this, from  
12 this 350,000?  
13 A No.  
14 MR. WELLS: Well, the -- just -- never mind.  
15 Sorry.  
16 BY MR. BUCHHOLZ:  
17 Q What did you base your determination on in terms of  
18 how to break this down?  
19 A Just -- it's a series of private transactions.  
20 Q Looking at the second page, which was the transfer  
21 from you to Newport, it says there's a private sale share  
22 agreement between you and Newport; is that the case?  
23 A Yes.  
24 Q Is that filed at Newport, or do you have a copy of  
25 that?

1 A If I haven't produced it, I don't have a copy of  
2 it, but that's not that I can't get one. I would have  
3 produced it if I had a copy of it. I don't know whether we  
4 did or not, so.  
5 Q I don't believe so, but if you --  
6 A Okay.  
7 Q Yeah. We would request any share sale agreements  
8 pertaining to Lexington stock that you have either in your  
9 custody or have the ability to obtain.  
10 And they were similar agreements for the sales from  
11 the Newport block breaking down further these other  
12 individuals and entities?  
13 A Yes.  
14 Q Did Newport receive compensation from these other  
15 individuals and entities?  
16 A In some cases.  
17 Q So let's start -- it looks like Newport retains  
18 41,700 of the shares, right?  
19 A Yeah.  
20 Q Who is Victor Meira, M-E-I-R-A?  
21 A Just a private investor.  
22 Q So he purchased 50,000 of the shares from Newport?  
23 A Again, I would have to go back and look at the  
24 records to determine which ones were purchases and if there  
25 were other reasons Newport transferred the shares. So --

1 Q Did Mr. --  
2 A I don't remember off the top of my head. That's  
3 the problem. A series of transactions here, and I wouldn't  
4 want to guess.  
5 Q So if they weren't sale agreements or purchase  
6 agreements, what other consideration would be provided to  
7 Newport by these individuals for the shares?  
8 A Could be in relation to services provided.  
9 Q Did Mr. Meira provide any services to Lexington  
10 Resources?  
11 A No.  
12 Q So did -- well, we see -- I see a couple names,  
13 Alexander Cox and Kelly Kellner, who you've identified as --  
14 A Sure.  
15 Q -- people who did?  
16 A Yeah.  
17 Q Other than them, did Mr. Boffo, Ottavio Boffo,  
18 B-O-F-F-O, provide any resource services to Lexington?  
19 A Not as far as I know.  
20 Q What about Vincenzo Aballini?  
21 A No.  
22 Q A-B-A-L-L-I-N-I.  
23 Is Mr. Boffo a private investor, to your  
24 understanding?  
25 A Yes.

1 Q Did he sometimes provide consulting services to  
2 Newport?  
3 A No.  
4 Q Did Mr. Meira sometimes provide consulting services  
5 to Newport?  
6 A No.  
7 Q Did Mr. Aballini sometimes provide consulting  
8 services to Newport?  
9 A No.  
10 Q Regarding the issuance to Mr. Cox, was that a sale  
11 agreement or was that for services?  
12 A That's what I'm not sure about.  
13 Q And the records at Newport would show that?  
14 A Absolutely, yes.  
15 Q What about Mr. Kellner, was that a sale agreement  
16 or for services?  
17 A I believe for services. Again, I'm not 100 percent  
18 sure, but I believe it was for services.  
19 Q Do you believe it was for services to Lexington?  
20 A It would have been in relation to Lexington.  
21 Q Why wouldn't the 125,000 shares have been issued  
22 directly to Mr. Kellner?  
23 A Because the option grant was already done at that  
24 point in time. So the options were granted to me, and I  
25 transferred them to Newport, so.



1 was one, I mean I'm not saying there was one. I just -- I  
 2 don't know.  
 3 Q Okay. So as you sit here today, you're not sure if  
 4 there were any --  
 5 A Yeah, I mean --  
 6 Q -- private sales that you made?  
 7 A Yeah. I'm not sure.  
 8 Q All right. So if there wasn't, and it was stock  
 9 that you held --  
 10 A Yes.  
 11 Q -- you deposited it in one of the two brokerage  
 12 accounts?  
 13 A Correct.  
 14 Q And transactions, deposits of the stock or sales of  
 15 the stock at Hypo would be reflected in the Hypo statements?  
 16 A Absolutely, yes.  
 17 Q And at Piper in the Piper statements?  
 18 A Correct.  
 19 Q Okay. There was a three-for-one stock split at  
 20 Lexington in 2004, correct?  
 21 A Yes.  
 22 Q Did you have some shares at that point that were  
 23 actually split, so you received two additional shares for  
 24 one?  
 25 A I don't remember. If I did, it would have got

1 split in the accounts, or it would have been on the  
 2 shareholder list at the time, corporate shareholder list, and  
 3 I just don't remember.  
 4 Q Did you also sometimes buy Lexington stock or  
 5 receive Lexington stock aside from the stock option grants?  
 6 A I certainly did purchase, yes.  
 7 Q Did you purchase in the open market?  
 8 A Yes.  
 9 Q Did you also purchase private sale share  
 10 agreements?  
 11 A Again, that's what I'm not sure about. And if I  
 12 did, there should be a document. So -- but I believe that  
 13 most of it was done if -- in the open market. I don't  
 14 remember offhand any private transactions.  
 15 Q Did you say you sometimes you purchased Lexington  
 16 stock in the open market for your own accounts?  
 17 A Correct.  
 18 Q Did you purchase Lexington stock in the open market  
 19 for Newport accounts?  
 20 A Yes.  
 21 Q Did you purchase Lexington stock in the open market  
 22 for Spartan accounts?  
 23 A Don't remember.  
 24 Q What about Pacific Rim?  
 25 A It's the same. I don't remember. I know there was

1 transactions, but I don't know whether there was buying --  
 2 buys and sells or just sells. Just don't remember.  
 3 Q And if you did for accounts of Spartan and Pacific  
 4 Rim, it would be through Peacock Hislop?  
 5 A That's correct, yes.  
 6 Q Did Newport have -- well, I'll start again.  
 7 For which accounts of Newport did you buy or sell  
 8 Lexington stock in the open market?  
 9 MR. WELLS: Well, I think we're back to the problem  
 10 of identifying the bank, a foreign bank perhaps, of a non US  
 11 citizen. I forget where Newport is domiciled. Belize.  
 12 BY MR. BUCHHOLZ:  
 13 Q Okay. Let's start with the US then.  
 14 Did you purchase or sell Lexington stock in the  
 15 open market for any accounts of Newport Capital Corp. in the  
 16 US?  
 17 A Yes.  
 18 Q Which accounts?  
 19 A Let's see. vfinance, Peacock Hislop, SG Martin.  
 20 Q Capital S, capital G is that?  
 21 A Yes.  
 22 Q Any others?  
 23 A I think that's it.  
 24 Q Did you have a broker that you worked with in  
 25 particular at Peacock?

1 A His first name is Craig, and his last name is  
 2 failing me. That's terrible.  
 3 Q Craig?  
 4 A Craig Sommers. Sorry. My memory is faltering at  
 5 this point in time.  
 6 Q Like the season summers?  
 7 A I think it's S-O-M-M-E-R-S, I believe.  
 8 Q What office or branch?  
 9 A I'm sorry. Just totally gone blank. It's on the  
 10 statements, but I just -- I can't. I can find out for you.  
 11 I just can't remember. It would be on -- I'm just trying to  
 12 remember the area code, and I can't.  
 13 Q Did you have a particular broker at SG Martin?  
 14 A That account is still open, by the way.  
 15 Q Peacock --  
 16 A Peacock Hislop with Craig. So he's currently the  
 17 broker on that account. So I -- just to clarify that. At SG  
 18 Martin it's Rich Fredericks, and that account is still open,  
 19 and then of course vFinance was Nicholas Thompson, and that  
 20 account is not open.  
 21 Q The Newport account with vFinance is closed?  
 22 A Yes, that's correct.  
 23 Q Since when?  
 24 A Again, it's quite a while. Sometime last year. I  
 25 just don't remember when.

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1 THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION	1 C O N T E N T S
2	2 WITNESS EXAMINATION
3 In the Matter of: )	3 Brent Pierce 252
4 ) File No. SF-02989-A	4 EXHIBITS
5 LEXINGTON RESOURCES, INC. )	5 EXHIBITS: DESCRIPTION IDENTIFIED
6 WITNESS: Brent Pierce	6 83 Bank of America statement. 253
7 PAGES: 247 through 410	7 Bates No. IMT 000418.
8 PLACE: Lane Powell	8 84 Bank of America statement. 258
9 1420 Fifth Avenue, Suite 4100	9 Bates Nos. IMT 000505 to 507.
10 Seattle, Washington 98101	10 85 Bank of America statement. 261
11 DATE: Friday, July 28, 2006	11 Bates Nos. IMT 000623 to 624.
12	12 86 Copies of checks. 262
13 The above-titled matter came on for hearing, pursuant to	13 Bates Nos. IMT 000585 to 586.
14 notice, at 8:18 a.m.	14 87 Copies of checks. 263
15	15 Bates Nos. IMT 000569 to 570.
16	16 88 Key Bank statement. 321
17	17 Bates No. RS 0048.
18	18 89 Key Bank statement. 322
19	19 Bates No. RS 0037.
20	20 90 Email chain. 325
21	21 Bates No. RS 0245.
22	22 91 Email chain. 327
23	23 Bates No. RS 0248.
24 Diversified Reporting Services, Inc.	24 92 Email chain. 337
25 (202) 467-9200	25 Bates No. RS 0255.
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2	2 EXHIBITS: DESCRIPTION IDENTIFIED
3 On behalf of the Securities and Exchange Commission:	3 93 INT/LXRS Database. 352
4 STEVEN D. BUCHHOLZ	4 Bates Nos. IMT 000214 to 218.
5 TRACY L. DAVIS (via telephone)	5 94 Qwest statement. 354
6 Division of Enforcement	6 Bates Nos. IMT 001277 to 001234.
7 Securities and Exchange Commission	7 95 Email and attachments. 373
8 44 Montgomery Street, Suite 2600	8 Bates Nos. VFIN 1087 to 1100.
9 San Francisco, CA 94104	9 96 Email chain to Nicholas Thompson to Douglas Toth and Brent Pierce. 378
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11 On behalf of the witness:	11
12 CHRISTOPHER B. WELLS	12 97 Email chain and attachment. 381
13 Lane Powell	13 Bates Nos. VFIN 1082 to 1084.
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18 660 - 220 Cambie Street	18
19 Vancouver, B.C. V6Z7B9	19 PREVIOUSLY INTRODUCED EXHIBITS
20	20 EXHIBITS: DESCRIPTION IDENTIFIED
21	21 21 List of names. 387
22	22 Bates No. VFIN 1062.
23	23 24 Email to Mr. Pierce from Nicholas Thompson dated 4/5/04. 370
24	24
25	25

1 Q Do you know of any other officers or directors of  
2 that entity?  
3 A I know there are others, but I don't know who they  
4 are.  
5 Q Have you ever been a director or an officer of the  
6 ANP entity in the UK?  
7 A No.  
8 Q Have you ever been an officer or a director of the  
9 ANP entity in the US?  
10 A No.  
11 Q Has any entity in which you have any beneficial  
12 ownership interest ever been a director or officer of either  
13 ANP entity?  
14 A No.  
15 Q How do you know that there are other officers or  
16 directors in the UK at ANP?  
17 A I just believe that to be the case.  
18 Q Based on what?  
19 A I just think there is another officer or director.  
20 I believe there's a corporate secretary, but I don't know who  
21 it is.  
22 Q Did Mr. Elliot-Square tell you that?  
23 A Yes.  
24 Q Has Ms. Ebert ever been a director or officer or  
25 corporate secretary or anything in connection with ANP in the

1 US or the UK?  
2 A If she is, it would only be in the US, and I don't  
3 know.  
4 Q Do you have any kind of ownership interest in ANP  
5 in the UK?  
6 A No.  
7 Q Do any entities in which you have a beneficial  
8 interest of any kind have an ownership interest in ANP in the  
9 UK?  
10 A No.  
11 BY MS. DAVIS:  
12 Q Mr. Pierce, did you provide any of the financing  
13 for ANP in the USA at any time?  
14 A No.  
15 Q Did Newport provide any of the financing for ANP in  
16 the US?  
17 A I don't remember.  
18 Q Is it possible?  
19 A Anything is possible.  
20 Q Well, some things are more likely.  
21 Is it possible that Newport provided some of the  
22 financing for ANP in the US?  
23 A Like you say, it's possible. I just don't know.  
24 Q Did IMT provide any financing for ANP in the US?  
25 A Again, it's possible, but I just don't know without

1 the records.  
2 Q What records would you look for?  
3 A Accounting records.  
4 Q Accounting records of what?  
5 A Well, Newport or IMT. Those are the companies I'm  
6 involved in. So those are the records I can look at.  
7 Q Okay. Would that be IMT, Inc., or IMT AG?  
8 A Well, it depends which question you're asking. Both.  
9 --  
10 Q Well, my question is did IMT provide any financing  
11 for ANP in the US, and you said it's possible.  
12 So my question is is it possible that IMT, Inc.,  
13 provided financing for ANP in the US, or is it possible that  
14 IMT AG provided financing?  
15 A I would have to look.  
16 Q Okay, and you'd have to look at the records of both  
17 IMT, Inc., and IMT AG; is that right?  
18 A That's correct.  
19 Q And do you have access to the records of IMT, Inc.,  
20 and IMT AG?  
21 A I'm a director of the company.  
22 Q So that means, yes, you have access to those  
23 records?  
24 A Yes.  
25 MR. WELLS: Ms. Davis, we may -- this is probably a

1 premature objection, but we may have some problem or Mr.  
2 Pierce may have some problem actually retrieving records from  
3 IMT AG if it is one of these foreign domiciled companies,  
4 which I believe it is.  
5 MS. DAVIS: Well, I guess it depends on where it --  
6 BY MS. DAVIS:  
7 Q Where is IMT AG domiciled? Did we establish that  
8 already?  
9 A Switzerland.  
10 Q I'm sorry?  
11 A Switzerland.  
12 Q Okay, and at what point -- we need a date certain  
13 in which you are going to get back to us on these issues  
14 about these foreign domiciled companies.  
15 MR. WOODALL: Can't give it to you at this  
16 movement. There's been a number of questions that have been  
17 asked. If we can get the questions specified in writing,  
18 either by the transcript or by you providing them in writing,  
19 then we can answer them.  
20 The first step I think is for us to find out  
21 exactly what questions you want us to pursue, and then we can  
22 give you an answer as to when we can get back to you. I  
23 understand your concern that it be sooner rather than later,  
24 but as I'm sitting here in the office today, I can't give you  
25 dates.

1 MS. DAVIS: Well, the problem is we've asked a  
2 number of questions that really all relate to the same thing,  
3 which is whether or not Mr. Pierce has access to information  
4 of records about IMT AG, Newport Capital, and several things  
5 he was asked about yesterday. Those are all very basic  
6 questions.

7 MR. WOODALL: My concern is -- and without knowing  
8 completely the answer, my concern is that the answer may  
9 depend on the precise form -- or sorry, the precise nature of  
10 the information you're seeking.

11 So, for example, it is -- and I'm speaking  
12 hypothetically here -- it is possible that the identity of  
13 directors and officers of those companies may not be  
14 confidential whereas shareholder lists may be.

15 It may be that shareholder lists are not  
16 confidential, but transactions that the entities have engaged  
17 in may be. So that's why I say -- I don't believe that the  
18 answer is going to be so broad and simple as simply does he  
19 have access to records. And so I think Mr. Buchholz wants to  
20 interject here.

21 MR. BUCHHOLZ: Well, I don't want to interrupt you.  
22 Go ahead and finish.

23 MR. WOODALL: No, go ahead.

24 MR. BUCHHOLZ: But I think it's pretty obvious from  
25 the questioning and -- we are looking for the directors and

1 officers and owners of these entities, including an entity  
2 that there's now been a 13D -- actually several entities that  
3 there's been a 13D filed for that does not disclose its  
4 beneficial owners.

5 So that should be very clear, and whether or not --  
6 and we also are asking for financial records, but -- you  
7 know, we feel like the request basically puts it into Mr.  
8 Pierce's court in terms of -- the testimony definitely sets a  
9 basis for us, for the information being connected to US  
10 publicly-traded companies that Mr. Pierce was involved in  
11 trading the securities of and involved in providing services  
12 to.

13 So that's why we feel like it really is up to him  
14 to get back to us with information, and there either needs to  
15 be a direction from his counsel that he cannot provide the  
16 information, but we have made the request, and we just can't  
17 wait indefinitely. We have to pursue whatever means we need  
18 to get the information.

19 MR. WOODALL: There seems to be three separate  
20 issues on the table here, and let's try and keep them  
21 separate. The first two issues are issues of process, and  
22 the third issue is one of substance.

23 The issue of process is are you going to tell us or  
24 give us a transcript so that we can determine the specific  
25 questions you are asking? It's no help to you, and it's no

1 help to us to simply insist that we answer "the request"  
2 because there isn't a single request. There have been a  
3 number of requests about a number of companies involving a  
4 number of different types of information.

5 So the first question of process is are you going  
6 to ask -- give us the questions in writing or a copy of the  
7 relevant portions of the transcript so that I can be sure  
8 that we are asking -- we are answering the questions you have  
9 asked? I don't understand know why that's an issue. If you  
10 want us to answer the questions, make sure that we know --  
11 make sure that we know the questions you want us to ask.  
12 There's no issue of confidentiality obviously because you  
13 have already asked the question.

14 MS. DAVIS: Well, Mr. --

15 MR. WOODALL: Can I just finish my --

16 MS. DAVIS: Sure.

17 MR. WOODALL: -- identifying the issues so that we  
18 can make sure that we are approaching this matter in a  
19 systematic way? Once we have the questions that we know that  
20 you wish to pursue -- and again, I don't understand why  
21 you're not prepared to give it to us, but you'll have an  
22 opportunity to address that in a moment.

23 The second question then is a matter of -- and also  
24 a matter of process which is when can we get back to you with  
25 the answer, and once we have the questions, we will be able

1 to focus our attentions and hopefully get to an answer soon.  
2 I'm not suggesting -- I understand very well that  
3 you have a desire to resolve this quickly. Obviously, to me,  
4 the way to resolve it quickly is to allow us to focus on what  
5 the issues are, which is to tell us what the questions are.

6 The third question then is one of substance, and  
7 that is the question that we will have to address, which is  
8 the advice that we give to Mr. Pierce about his ability to  
9 answer them.

10 So if your overall concern is to move on quickly  
11 with this, then it seems to me the obvious first step is for  
12 you to clarify precisely what it is that you want to answer.  
13 I have been taking general notes, and I understand generally  
14 the issues, generally the entities, but it's not going to  
15 help us to be able to get back to you unless we know  
16 precisely what is it you want.

17 And I don't know why getting a portion of the  
18 transcript, if you don't want to repeat the questions because  
19 of the effort that may take, or you write out the questions,  
20 is a big deal.

21 MS. DAVIS: Okay. Well, let me start with why we  
22 don't write out the questions. We don't do that for anyone  
23 because that's not our job at the Securities and Exchange  
24 Commission, sir. What we do is get information from  
25 witnesses at the time that we ask the questions. We don't

1 provide anyone with questions in advance before we ask them  
2 because we want the witness's best recollection.

3 Now, if you have an objection, you'd like to  
4 instruct your client not to answer, then that's the process,  
5 and we understand that's a practical matter. We do want to  
6 get the information. And all I'm telling you is we can't sit  
7 down and write out a list of questions for your client to  
8 then decide whether or not he wants to answer.

9 And I think at this point what would be the most  
10 probably useful is to the extent that we ask a question, and  
11 you have the objection on the grounds of confidentiality,  
12 which by the way is not an objection that is useful for our  
13 process, but in any event, if you have an objection, then for  
14 us it would be useful for you to make the objections, then  
15 instruct your client not to answer, and get back to us on the  
16 information. But at this point in the process, we can't and  
17 don't provide questions in advance for witnesses to answer.

18 When Mr. Buchholz said that we provided the general  
19 parameters, I think it's pretty clear there are companies  
20 that Mr. Pierce has testified to over the course of a day  
21 now, that were involved in providing services to a US  
22 publicly-traded company, and have traded shares in that  
23 publicly-traded company. And we would like information  
24 regarding those entities. And if your objection is you  
25 cannot provide that information, then we would like that to

1 be clear on the record so that we can then move forward from  
2 our own end as to what we do with that.

3 But at this point, we cannot provide questions in  
4 advance. Of course you can make a request for a copy of the  
5 transcript, we do do that, and we are not denying you the  
6 right to get a copy of the transcript. You can obviously do  
7 that, but we don't want you to misunderstand that only the  
8 specific questions that we have asked that are identified in  
9 the transcript are the ones that you are going to go and find  
10 the answer to.

11 What we generally want to know is can Mr. Pierce  
12 provide information about the identities of, the shareholders  
13 of, the directors of the various companies that we have  
14 talked about that were involved either directly or indirectly  
15 with Lexington Resources. That's the broad question.

16 Now, we can't sit down and write out every question  
17 because of course with any question, there are going to be  
18 follow-up questions depending on what the answer is, and  
19 that's why we don't provide questions in advance.

20 MR. WOODALL: Perhaps we are talking at cross  
21 purposes here. I wasn't expecting that you would provide in  
22 writing every question and every follow-up question that you  
23 want.

24 MS. DAVIS: Okay.

25 MR. WOODALL: What I was hoping that we would be

1 able to get are the questions you've asked at, least to this  
2 point, because that allows us to focus our -- our assessment  
3 and analysis of his obligations. I would expect that our  
4 answer to the question of whether he's at liberty to provide  
5 the information you've asked on the questions you've asked so  
6 far, will also have apply to follow-up questions.

7 It is always possible, but probably not likely,  
8 that follow-up questions would engage a different set of  
9 analysis, but all I'm asking is that we have in writing,  
10 either by the transcript or by you writing them out, I don't  
11 really care, the questions you've asked to this point. And,  
12 you know, saying that it's not how you do the -- how you do  
13 things, I can appreciate that concern going forward because I  
14 understand the process.

15 But concerning the questions you've asked already,  
16 that's water under the bridge. You've asked the questions.  
17 The -- your legitimate concerns about being able to ask  
18 questions without telegraphing where you are going have  
19 already been met by the fact that you've asked the questions.

20 So to summarize then, we are not -- I'm not taking  
21 the position -- and I certainly agree with you that you don't  
22 have to write out every question and every follow-up question  
23 you might want to ask. All I'm asking for is the questions  
24 you have asked to this point.

25 MR. WELLS: And this is Chris Wells. I just want

1 to make -- I'm identifying myself for the record and also for  
2 the benefit of counsel who is only present by telephone -- I  
3 think maybe our objection has been mischaracterized as one of  
4 confidentiality. I do not believe that is the basis of the  
5 objection.

6 The basis of the objection is that we, that is Mr.  
7 Pierce's Canadian counsel and we at Lane Powell in the US, do  
8 not want Mr. Pierce to violate the law of another country in  
9 the course of his attempts to assist the SEC in gathering  
10 information in this investigation.

11 So, for example, Mr. Pierce does a lot of business  
12 in Europe, as he has testified in this proceeding, and he  
13 does not want to risk being held civilly liable to various  
14 Swiss or Liechtenstein or foreign jurisdictions, and he  
15 doesn't want to risk criminal liability in those  
16 jurisdictions, as well.

17 So that requires some caution before giving him  
18 advice as to how to proceed and his Canadian counsel are  
19 going to be addressing that problem as soon as possible.  
20 Thanks.

21 MS. DAVIS: Okay. And I think the point that we  
22 are trying to make is, with respect to companies, I  
23 understand the issue about potential liability in another  
24 country when disclosing information that may or may not be  
25 confidential.

1 Our concern is with respect to a US publicly-traded  
2 company, if there are entities on whose behalf Mr. Pierce is  
3 acting on, and we are seeking that information, then I'm not  
4 sure how that puts him in some kind of jeopardy to the extent  
5 that that is connected to business in the publicly-traded  
6 company.

7 But I understand your objection and, you know, our  
8 concern was mainly that not only that Mr. -- that Mr.  
9 Pierce's Canadian counsel would like time to I guess research  
10 the issue, but we need a time line. And we can do it from  
11 one week from the time you get the transcript. I mean the  
12 issues themselves are out there, and I think it's pretty  
13 clear what the issues are in terms of confidentiality. So  
14 that's why we don't understand why there can't be some kind  
15 of parameters on the time line.

16 MR. WOODALL: Well, I'm not saying we won't give  
17 you that soon. I mean it seems to me -- well, let me just go  
18 back and explain why we can't give you the parameters now. I  
19 am not a Liechtenstein lawyer or a Swiss lawyer. So what I'm  
20 going to have to do with Lane Powell is -- I would begin by  
21 analyzing the questions, not much differently than what you  
22 just did a moment ago.

23 There may be some questions that irrespective of  
24 the law of foreign jurisdiction, you're entitled to ask him.  
25 So we don't know to go to Switzerland or Liechtenstein to get

1 the answer to that question, and the point that you made a  
2 moment ago about US traded companies may very well apply.  
3 I'm not disagreeing with that as a possible overriding  
4 principle.

5 But where there are questions that you've asked  
6 that do engage the confidentiality laws of a foreign  
7 jurisdiction, we are going to have to consult lawyers in  
8 those areas. My limited experience in the past has led me to  
9 understand that they will want to know what the question is  
10 and what the purpose of the -- is for the information. They  
11 may have derivative use immunity laws. They may have laws  
12 that allow information to be used for some purposes but not  
13 for others. I just don't know.

14 And so the difficulty I have today in giving you a  
15 time line is I haven't -- I don't have the advice yet from  
16 the lawyers in the foreign jurisdictions. This is the  
17 summer. They probably do the same thing we do, which is take  
18 vacation. So you can't phone somebody up and say I want an  
19 answer in 48 hours.

20 So if it was me researching Canadian law, I could  
21 commit to a time, but it's not me researching Canadian law.  
22 It's me engaging foreign counsel and asking opinions from  
23 them, and if you are concerned about getting the process  
24 moving quickly, the fastest way to get the process moving  
25 quickly is to give us something in writing, again, the

1 transcript or from you, that we can take to the foreign  
2 counsel and say this is the specific question that we want  
3 answered. And again, I'm not resigning from the fact that  
4 that doesn't mean you can't ask follow-up questions and get  
5 an opinion.

6 So if you want the matter to move quickly, give us  
7 what you want in writing. Then we can approach the foreign  
8 counsel, and, you know, you'll just have to, at the moment,  
9 take it on good faith. And I understand your desire to have  
10 the matter move quickly, and we will take it forward quickly,  
11 but I can't give you a date.

12 MS. DAVIS: Okay. With respect to entities that  
13 are identified in public filings with the SEC, I don't  
14 understand why that's an issue with Mr. Pierce discussing or  
15 testifying about that information.

16 MR. WOODALL: Well, the question you've asked --  
17 the concept you have asked is, at the moment is so broad, I'm  
18 not quite sure what you mean. You say "entities that are  
19 traded."

20 If you've got, for example, a company that owns or  
21 has a beneficial interest in securities of a US company  
22 traded in the US, perhaps the identity of the company that is  
23 doing the trading is a fairly obvious point. But when you  
24 get into questions about the activities of a company that  
25 owns that company or some other corporate organization or

1 trust, for example, that owns it, now you are getting into  
2 some distance from the obvious point.

3 It may very well be that we are told that there are  
4 no issues, but the farther you get away from the precise  
5 entity that owns the shares and is directing their trading,  
6 the more difficult the question is to answer and the less  
7 obvious the answer is.

8 MS. DAVIS: And I think the reason we got into this  
9 area was that, if I'm not mistaken, Mr. Buchholz was asking  
10 about 13D filings.

11 MR. WOODALL: Well, we have -- we had a lot of  
12 questions yesterday about a lot of things, and that's why --  
13 you understand your process better than I, and I would never  
14 suggest to you how to do your job, but all I'm saying is if  
15 we can get in writing what we want -- because you have  
16 already asked the questions, it's not like you're going to be  
17 -- you're going to be losing the legitimate element of  
18 surprise in an investigation. I don't doubt that that's an  
19 issue.

20 If we get them in writing, then we can move  
21 forward, and I'm telling you that I will look into the issue  
22 as quickly as I can. This investigation is taking some time,  
23 and it will take some more time, and we won't stand in the  
24 way of it proceeding quickly. But I can't give you a  
25 deadline today, and I can't answer the questions today.

1 MS. DAVIS: Okay. Steve, correct me if I'm wrong,  
2 did we -- I thought we got into this area because we were  
3 asking about some of the entities in the 13D filing?  
4 MR. BUCHHOLZ: Yeah. Well, it's come up in that  
5 connection, and it also, I think, may have been IMT AG that  
6 directly led to this, but I mean I can't -- I can ask a very  
7 specific question, which is -- and I may have asked it  
8 yesterday, but obviously Newport Capital has just filed a 13D  
9 disclosing transactions in Lexington, a US public company,  
10 who -- which entities, which individuals have ownership  
11 interests in Newport is the basic question, and I think we  
12 are entitled to that information. I don't actually remember  
13 at this point whether you instructed him not to answer or  
14 objected to that on these grounds.  
15 MR. WELLS: I believe we did as to Newport, again  
16 subject to an inquiry about the law of foreign jurisdiction  
17 which Newport is domiciled and incorporated, founded,  
18 whatever it is. I think it's Belize and Switzerland.  
19 MR. BUCHHOLZ: And I think the same thing happened  
20 with regard to Parc Place and Sparten and Pacific Rim, which  
21 are all identified as entities in the 13D that Mr. Pierce  
22 directs or has control over, is that right --  
23 MR. WELLS: Well, hang on just a second.  
24 MR. BUCHHOLZ: -- for the purpose of the shares of  
25 Lexington, and you are not providing that information today,

1 is that right, Mr. Pierce?  
2 THE WITNESS: That's correct, although I believe we  
3 did provide some information yesterday.  
4 MR. WELLS: The ownership of Newport was disclosed  
5 in a public document, and we went as far as that, but we  
6 couldn't go beyond who owns the Emerald trusts or who's the  
7 beneficiary.  
8 THE WITNESS: And we also said that it wasn't a US  
9 resident.  
10 MR. BUCHHOLZ: Right.  
11 THE WITNESS: I think that's as far as we got with  
12 it.  
13 MR. WELLS: Yes. Very good.  
14 MR. BUCHHOLZ: And I think just so that it's clear  
15 at this point, I want to -- I think there's other things that  
16 -- well, I just wanted to be clear that we have -- that  
17 there's a subpoena outstanding for this information, and we  
18 believe that some of this information, if not all of this  
19 information, is required to be provided. And that, you know,  
20 after we adjourn today, it's -- the information that we've  
21 requested and asked about has not yet been provided, and it's  
22 an open subpoena, the testimony will not have been completed,  
23 obviously.  
24 And so I think the point about the time is that we  
25 understand right now you are not willing to give us a

1 specific date, but we also are not willing to wait  
2 indefinitely to enforce the subpoena. So we obviously want  
3 to work with you, and we understand that there is going to be  
4 some time needed to get the information, but we just need it  
5 to move diligently.  
6 And we will talk to you, I think, after the  
7 proceeding today and move forward as quickly as we possibly  
8 can. You understand we have to do what we need to do to get  
9 the information.  
10 MR. WOODALL: I don't disagree with any of that.  
11 MR. BUCHHOLZ: Okay. Do want to say anything else  
12 on that, Tracy?  
13 MS. DAVIS: No.  
14 BY MR. BUCHHOLZ:  
15 Q So let me just cover this as well.  
16 Mr. Pierce, do you know who the beneficial owners  
17 are of the Emerald Trust?  
18 A Yes.  
19 Q A "yes" or "no" question.  
20 A Yes.  
21 Q You do?  
22 A Yes.  
23 Q Okay. Are you willing to -- do you know how many  
24 there are, how many individuals or entities?  
25 MR. WOODALL: I think at the moment -- I mean we're

1 not going to be advancing your inquiry much today by knowing  
2 the number.  
3 MR. BUCHHOLZ: I'm not asking the number. I asked  
4 him whether he knows the number.  
5 MR. WOODALL: I'm sorry. I apologize.  
6 THE WITNESS: Yes.  
7 BY MR. BUCHHOLZ:  
8 Q And if I were to go through all of these entities  
9 that are domiciled in foreign jurisdictions where you've  
10 indicated you are not willing to provide the information, do  
11 you know the information?  
12 A Yes.  
13 Q Okay. I just wanted to make that clear because I  
14 hadn't asked that question yesterday.  
15 Do you as an individual have an ownership interest  
16 that is direct or indirect leading up to any of these  
17 entities in foreign jurisdictions?  
18 A I don't understand the question. "Leading up to"  
19 confuses me.  
20 Q What I'm trying to understand is whether or not you  
21 are taking the position or your counsel is taking the  
22 position that Mr. Pierce could be violating foreign laws to  
23 disclose his own personal beneficial interest in these  
24 companies?  
25 MR. WELLS: No, I don't think that's the position

1 we've taken at all.

2 MR. BUCHHOLZ: So I'm not sure that that question  
3 has been clearly asked, and I want to make sure that we do  
4 that, whether Mr. Pierce himself has a beneficial interest  
5 personally. And when I say "leading up to," I mean maybe  
6 through other entities or organizations, but ultimately  
7 whether Mr. Pierce himself has a beneficial interest in any  
8 of these entities in the foreign jurisdictions, and we can go  
9 through each one if we need to.

10 MR. WELLS: Well, instead of "leading up to," don't  
11 you usually use the term "directly" or "indirectly"?

12 BY MR. BUCHHOLZ:

13 Q Sure. We can use the term "directly" or  
14 "indirectly," as long as it is clear that that means whether  
15 it's through any number of companies but ultimately leading  
16 to you personally.

17 A: Are we talking about the 13D now, or are we talking  
18 about every foreign company that we've discussed?

19 Q Let's start with Newport.

20 A Can you ask a full question just so I --

21 Q Yes, I'd be happy to.

22 A Okay. Sorry.

23 Q Do you hold an ownership interest, directly or  
24 indirectly, in Newport Capital Corp.?

25 A No.

1 Q Do you hold an ownership interest directly or  
2 indirectly in any trust, any other legal entity or  
3 organization that ultimately holds an ownership interest in  
4 Newport?

5 A No.

6 Q Do any of your family members hold any beneficial  
7 ownership interests in any entities, trusts, other legal  
8 organizations that hold an ownership interest in Newport?

9 MR. WELLS: Well, now, I think unfortunately,  
10 although your intentions are good, we are running into the  
11 same problem of disclosing the identities of persons or  
12 entities other than Mr. Pierce himself regarding ownership of  
13 one of these foreign domiciled countries, and although it may  
14 make sense to us that he would have the power to identify a  
15 family member, I don't know that it does in some other  
16 jurisdiction. Mr. Woodall is shaking his head over here,  
17 too.

18 MR. WOODALL: I don't know whether it does either.

19 BY MR. BUCHHOLZ:

20 Q Do any of your family members in Canada or the US

21 --

22 MR. WELLS: No, that doesn't change --

23 MR. BUCHHOLZ: Well, we have a US lawyer and a  
24 Canada lawyer right here.

25 MR. WELLS: But wherever the person lives, it may

1 violate the laws of Switzerland where Newport Capital has an  
2 office if Mr. Pierce identifies an owner who resides in  
3 Seattle.

4 MR. WOODALL: Yeah, and his family members are  
5 separate individuals. Their rights are separate, their  
6 interests are separate, their privacy interests are separate.  
7 It may be at the end of the day that they are legitimate  
8 answerable questions, or they may not be.

9 MR. WELLS: Maybe we can address this at a break  
10 and take it up again.

11 MR. BUCHHOLZ: Okay. Are you instructing Mr.  
12 Pierce not to inform the Commission in response to our  
13 Commission -- in response to our question whether or not he  
14 has family members who have beneficial ownership interests in  
15 any entities or legal structures that hold interest in  
16 Newport?

17 MR. WELLS: I'm advising him that he should refrain  
18 from providing that answer until he has obtained the advice  
19 of the appropriate legal counsel in the appropriate  
20 jurisdiction.

21 BY MR. BUCHHOLZ:

22 Q Mr. Pierce, do you exercise any control whatsoever  
23 through discussions, instructions over family members who  
24 hold beneficial ownership interests through any other legal  
25 entities in Newport?

1 MR. WELLS: Object to the term "control,"  
2 particularly in the context of family relationships. It's  
3 vague and --

4 MR. BUCHHOLZ: Will you allow him to answer the  
5 question?

6 MR. WELLS: Certainly.

7 THE WITNESS: I guess I don't even understand the  
8 question. So maybe you can do it again.

9 BY MR. BUCHHOLZ:

10 Q The family members who may potentially hold  
11 beneficial ownership interest in Newport that I asked about  
12 before, do you exercise any control over them? And by  
13 "control," I mean through instructions of any kind related to  
14 Newport?

15 MR. WELLS: Where -- I think the question is  
16 regardless of Newport. I think the fairer question is do you  
17 exercise any control in -- within some sort of meaning of  
18 federal securities laws that I'm not sure this witness is  
19 capable of answering as a layperson over his wife and his  
20 daughter. Those are his family members.

21 MR. BUCHHOLZ: Well, I appreciate that. I wasn't  
22 -- I didn't know which family members we were talking about  
23 because he didn't answer that question.

24 MR. WELLS: I'm sorry. I thought he testified  
25 earlier that he had a current wife and one daughter.



1 MR. BUCHHOLZ: Well, I don't know whether he has  
2 parents or siblings or anyone else.

3 BY MR. BUCHHOLZ:

4 Q But regardless, and I added the "regarding Newport"  
5 just to be more specific. I didn't want to it be -- and I'm  
6 not asking whether or not you tell your daughter to go buy  
7 groceries or something thing like that. This is specifically  
8 regarding these companies we have been talking about.

9 And what I'm trying to figure out is whether or not  
10 the ownership interest is held in a name or held by someone,  
11 but that you are involved with the activities in connection  
12 with these entities. That's what I want to understand.

13 So with regard to Newport --

14 A I'm obviously involved in activities. I mean I'm a  
15 director and officer in the company. So I'm getting very  
16 confused here as to -- if you understand what I'm saying.

17 Q Well, but let me just get back to the specific  
18 question. And if the answer is "no" or "yes," or if there's  
19 an objection and instruction not to answer, let it be the  
20 case.

21 But with regard to Newport, do you give  
22 instructions of any kind to family members regarding Newport  
23 who have an ownership interest of any kind in Newport?

24 MR. WELLS: Well, now I'm going to have to give him  
25 the same advice as to that particular question because the

1 A Yes.

2 Q Okay. There's a -- at the top it says little iii,  
3 "Shares held by Dana Pierce," ("Mrs. Pierce"), the wife of  
4 Mr. Pierce"; do you see that?

5 A Yes, I do.

6 Q And I believe reading the chart, it indicates that  
7 on January 23, 2006, and April 17, 2006, and May 26, 2006,  
8 Mrs. Pierce was the owner of 45,000 shares of Lexington  
9 Resources stock on each of those dates; do you see that?

10 A Yes.

11 Q Is that how you read that, as well?

12 A Yes.

13 Q All right. How did your wife become the owner of  
14 those 45,000 shares on each of those dates of Lexington  
15 Resources stock?

16 A I believe that she purchased stock through her  
17 brokerage account. And my recollection is that she purchased  
18 it before the stock split, and that's how she ended up with  
19 45,000 shares.

20 Q And did you instruct your wife at all with respect  
21 to the purchase of those shares?

22 A She deals independently with her broker.

23 Q Okay, but did you have -- okay. Did you have any  
24 discussions with her wife about the purchase of those shares  
25 of Lexington Resources stock?

1 question necessarily requires him to answer -- to identify a  
2 family member if a family member is an owner.

3 MR. BUCHHOLZ: Regardless of whether the family  
4 member is an owner --

5 MR. WELLS: Well, it's a different question.

6 MR. WOODALL: If no family member is an owner, then  
7 the question is objectionable because it presupposes a family  
8 member is an owner. If the family member is not an owner,  
9 then the question makes no sense. So the only way the  
10 question can be answered is by him implicitly identifying  
11 whether a family member is directly or indirectly one of the  
12 -- involved in one of the foreign entities.

13 MR. WELLS: In other words, it's an extraordinarily  
14 good trick question. Again, if you want to move along, we  
15 could confer briefly during a break and maybe take this up  
16 again, if you would like.

17 BY MR. BUCHHOLZ:

18 Q Mr. Pierce, is your wife involved in the operations  
19 of Newport?

20 A No.

21 BY MS. DAVIS:

22 Q Mr. Pierce, I'm looking at Exhibit 64, 13D filing,  
23 Page 437.

24 A Hang on. I've got to find it. I'm on Page 37.

25 Q 437?

1 MR. WELLS: Is that privileged?

2 MS. DAVIS: Whether he answers the question is not  
3 privileged. The time --

4 MR. WELLS: Sorry. I'm asking the Canadian lawyer  
5 sitting next to me. I'm not concerned about the US.

6 THE WITNESS: I may have suggested to her to  
7 purchase stock.

8 MS. DAVIS: Okay. Thank you.

9 BY MR. BUCHHOLZ:

10 Q Who is her broker?

11 A Canacord Capital. C-A-N-C-A-O-R-R-D, Capital, I  
12 believe. I might have spelled it wrong.

13 MR. WOODALL: I think it's C-A-N-A-C-O-R-D.

14 BY MR. BUCHHOLZ:

15 Q Does she work with a particular broker there?

16 A Yes.

17 Q Do you know his name?

18 A Michael Cassady.

19 Q How do you spell Cassady?

20 A C-A-S-S-A-D-Y.

21 Q Regarding the other foreign entities that we have  
22 talked about, Sparten, Parc Place, Pacific Rim, IMT AG, are  
23 you willing to tell us whether or not a family member of  
24 yours holds a beneficial ownership interest in those  
25 entities?

1 MR. WELLS: I'm going to give Mr. Pierce the same  
2 advice we've been giving the questions along those very same  
3 lines, that he should obtain an opinion of legal counsel from  
4 the appropriate jurisdiction before answering.

5 BY MR. BUCHHOLZ:

6 Q I'm handing you a document, Mr. Pierce, that was  
7 previously marked as Exhibit 61. I'd like to ask you a  
8 question about one specific page of this. For the record,  
9 the pages are labeled TRON 4651 through 4670. It's a  
10 transfer agent file from X-Clearing related to issuance of  
11 80,000 shares to you, but the page I want to ask about is  
12 actually a corporate resolution page related to Newport  
13 Capital, and it's Page TRON 4654.

14 Do you see that page?

15 A Not yet. I see the page.

16 Q Is that your signature where it states "Brent  
17 Pierce, president/treasurer"?

18 A Appears to be.

19 Q Do you recognize the signature at the bottom of the  
20 page for Cockburn Secretaries Limited?

21 A Not sure whose signature that is.

22 Q Is Cockburn Secretaries affiliated with Cockburn  
23 Directors that we spoke about yesterday?

24 A I wouldn't know to provide the answer to that.

25 Q Is it correct that as of 19th of March, 2004, as it

1 states here; you were the only officer of Newport Capital  
2 Corp.?

3 A I don't remember. Where does it say that? I don't  
4 see that. I'm sorry.

5 Q Immediately above the list of officers in which you  
6 are the only one listed, it says: "I further certify that  
7 the authority hereby conferred is not inconsistent with the  
8 charter of any bylaws or special resolutions of the company,  
9 and that the following is a true and correct list of the  
10 officers of the company as of the present date."

11 A I believe the secretary is an officer. Is that not  
12 correct? I don't know.

13 Q Okay. So --

14 A So I'm a confused a little bit myself, so.

15 Q There's no other name on the list, but you mean  
16 that the signature for Cockburn Secretaries says "secretary"?

17 A Yes.

18 Q Okay. So as of this date, was it your  
19 understanding that you were the president and treasurer, and  
20 that Cockburn Secretaries was the secretary, and those were  
21 the only officers of Newport Capital?

22 A And what is the date of this?

23 Q It's signed March 19, 2004.

24 A Other than I think I previously testified that  
25 maybe Stephanie Ebert was an assistant secretary. So -- and

1 I don't remember the time frame of that, so, but I did  
2 previously testify to that.

3 Q Okay. Other than that, you believe that to be a  
4 true statement --

5 A Yes.

6 Q -- that those are the officers?

7 A Uh-huh.

8 Q And do you see at the top where it says "Newport  
9 Capital Corp., a company organized and existing under and by  
10 virtue of the laws of the Turks and Caicos Islands"?

11 A I see that.

12 Q Didn't you say that there was no Newport Capital  
13 entity in the Turks and Caicos Islands in your testimony?

14 A I believe that's a typo because it should say  
15 Belize. So it's wrong.

16 Q Okay. Have you seen this corporate resolution  
17 before? I mean you signed it.

18 A Obviously I did. I mean I signed it, and it's --  
19 notarized here, so.

20 Q Why didn't you -- did you just not notice --

21 A I just didn't notice.

22 Q That it said Turks and Caicos?

23 A You just pointed it out to me, and I noticed it. I  
24 signed a few of them, so.

25 Q Okay. If you turn to the third page of this

1 exhibit, Exhibit 61, the page is labeled TRON 4653. It looks  
2 like this is a transfer from Newport which received the  
3 shares from you, now Newport passing the shares on to Pacific  
4 Rim.

5 Is that consistent with your recollection?

6 A I don't have a recollection, but that's what the  
7 transfer records say.

8 Q Do you have any reason to believe they are not  
9 accurate?

10 A No.

11 Q Okay. Mr. Pierce, is the 80,000 shares that were  
12 transferred on or about June 25, 2004, from Newport to  
13 Pacific Rim disclosed in your 13D filing? Feel free to refer  
14 to Exhibit 64.

15 A I would have to go look at my other records to  
16 really determine that.

17 Q Well, in the chart on Page EP 437 of Exhibit 64,  
18 which was the 13D filing --

19 A Sure.

20 Q -- Pacific Rim is never shown as having more than  
21 4,000 shares at any point.

22 A Yeah, but there's gaps in there, so, dates, so --

23 Q So --

24 A There could have been a private transaction. I  
25 just can't tell you without going and looking at the records.