

1 at least that part of that is not true. The part
2 about document how spares were used or consumed.
3 That's definitely not true. Replace or repair,
4 either -- all that's in the warranty
5 administration which requires the Contracting
6 Officer's invocation of that warranty.

7 [REDACTED]: Are there any other matters
8 pertaining to Allegation 6 in the spare warranty
9 issue that you'd like to discuss at this time?

10 MR. DANIELS: None other than, like I
11 say, the obvious omissions of material facts
12 regarding to Paragraph E-19 from this findings is
13 kind of obvious. I don't know why they would ever
14 intentionally omit that, but it's not here and it
15 should be.

16 [REDACTED]: Well, it's twenty after
17 three right now. And, I have finished up what I
18 have right now to ask about Allegations 1 through
19 6, unless you have anything further to discuss
20 right now. I understand there are issues still
21 open regarding Allegations 1 through 6. And, I
22 would suggest that we break for today and resume
23 again tomorrow.

1 ██████████: Could we just go off the
2 record for two minutes and I can talk to you
3 outside.

4 ██████████: Is that okay with you,
5 Mr. Daniels?

6 MR. DANIELS: That is fine.

7 ██████████: Why don't we do that? Why
8 don't we take a couple minutes break and we'll
9 conclude.

10

11

(Brief recess.)

12

13 ██████████: It's 3:25, Tuesday, 14
14 July, we are back on the record. Just a follow-up
15 question or two regarding Allegation 6.

16 Mr. Daniels, when you became aware of
17 the issues that you just discussed with the
18 warranty spares, and you indicated that at the
19 time -- is it ██████████, the Contracting
20 Officer?

21 MR. DANIELS: Yes.

22 ██████████: Were there discussions with
23 ██████████, the Contracting Officer about these

1 issues?

2 MR. DANIELS: Oh, these didn't come up
3 during his time. He only signed the mod
4 definitizing the mod, I mean the action. The
5 warranty didn't end -- I mean, the warranty period
6 didn't end until two years after the last launcher
7 was delivered. It was long gone before this issue
8 came up.

9 [REDACTED]: Well, were there
10 discussions with the then Contracting Officer at
11 the time?

12 MR. DANIELS: Yes.

13 [REDACTED]: And, who was that?

14 MR. DANIELS: That would have been [REDACTED]
15 [REDACTED] and [REDACTED].

16 [REDACTED]: [REDACTED] and [REDACTED]
17 [REDACTED]?

18 MR. DANIELS: Right. [REDACTED] came
19 after -- I mean, [REDACTED] came after [REDACTED]
20 [REDACTED].

21 [REDACTED]: So, roughly, what time
22 frame would [REDACTED] have been the Contracting
23 Officer when these issues surfaced to you?

1 [REDACTED] You mean [REDACTED].

2 [REDACTED] I'm sorry, [REDACTED].

3 MR. DANIELS: I would say around the
4 year 2000, 2001. It was close to the end of the
5 warranty period.

6 [REDACTED]: And, what about [REDACTED]?

7 Would that have been some time after that you
8 said?

9 MR. DANIELS: Yeah, he came after that,
10 then supposedly, he worked that issue with
11 Lockheed. And, like I say, I have no idea what he
12 did. He didn't come back and tell me, that's for
13 sure.

14 [REDACTED]: And, why do you believe he
15 may have worked the issue with Lockheed Martin?

16 MR. DANIELS: Well, some time after
17 that, he gave me some documents that supposedly he
18 had discussed with Lockheed concerning these
19 rotatable spares and the warranty and that's all I
20 heard from him.

21 [REDACTED]: So, as far as you know, was
22 any action taken by the Contracting Officer,
23 either [REDACTED] or [REDACTED]?

1 MR. DANIELS: Not that I know of. I
2 don't know what happened.

3 [REDACTED]: And, so are you unaware
4 then of what --

5 MR. DANIELS: What the final settlement
6 was?

7 [REDACTED]: Right.

8 MR. DANIELS: No.

9 [REDACTED]: Okay, unless you have
10 something further to add on this subject, like I
11 said, if it's okay with you, we can reconvene
12 tomorrow morning at nine o'clock, is that fine?

13 MR. DANIELS: Fine.

14

15 END OF SWORN STATEMENT OF JULY 14, 2009

16

I N D E XWITNESS:PAGE NUMBER:CLARENCE N. DANIELS

Examination by [REDACTED] [REDACTED] 207

E X H I B I T S

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1 * * * * *

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6

[REDACTED]: This is [REDACTED]. It is
Wednesday, 15 July 2009. It's 9:05, and with me
are Mr. Clarence Daniels and [REDACTED] and
the Court Reporter.

7

Good morning, Mr. Daniels.

8

MR. DANIELS: Good morning.

9

[REDACTED]: Yesterday, we discussed
10 certain documents that, I'm sorry, I'm reminding
11 you that you are still under oath from yesterday.

12

13

14

15

16

Yesterday, there were three documents, I
believe, that you indicated that you would try to
locate. And I believe you've indicated this
morning before we went on the record that you've
located two of the three.

17

MR. DANIELS: Yes.

18

19

[REDACTED]: If you have those, can I
ask you to provide those to us at this time?

20

MR. DANIELS: Yes.

21

[REDACTED]: Thank you.

22

MR. DANIELS: (Complying with request.)

23

[REDACTED]: May I please have Exhibit 5?

1 MR. DANIELS: The first set of documents
2 I am providing you are the Contracting Officer's
3 letter denoting the condition of the acceptance of
4 the M270A1 launchers that did not meet the
5 contract requirements.

6 (Exhibit No. 9, being a 2 page
7 document dated 29 November 2000,
8 addressed to, "Lockheed Martin
9 Vought Systems," was marked.)

10 ██████████: Okay, the 29, November 2000
11 letter, the signature block of the Contracting
12 Officer is illegible. I believe it's contained
13 already in the --

14 MR. DANIELS: Yes.

15 ██████████: In the DA report, though.
16 This was the ██████████, I believe?

17 MR. DANIELS: No, Major ██████████, I
18 do believe.

19 ██████████: ██████████, right. And, could
20 you ascertain what tab that's located at, ██████████,
21 please? And, also attached are what, Mr. Daniels?

22 MR. DANIELS: Letters denoting
23 conditional acceptance of launchers that did not

1 meet the requirements of the contract.

2 (Exhibit No. 10, being a one page
3 letter dated 19 December 2000,
4 addressed to, "Lockheed Martin
5 Vought Systems," was marked.)

6 [REDACTED]: And, whose document is
7 that?

8 MR. DANIELS: [REDACTED] 19
9 December, 2000. It may be the same one.

10 [REDACTED]: And, is that a part of the
11 first exhibit that you provided us? Is that
12 right, this morning?

13 MR. DANIELS: Yeah, I'm not sure whether
14 that's the same thing or not. It may be
15 different. No, they're different.

16 [REDACTED]: Do you want these as
17 separate exhibits?

18 MR. DANIELS: As separate exhibits.

19 [REDACTED]: Okay. So, there's a 29
20 November 2000 letter? And a 19 December 2000
21 letter. The 29 November 2000 letter, I believe,
22 is part of the DA report?

23 MR. DANIELS: And, I have a 30 January

1 2001 letter signed by [REDACTED] accepting non-
2 conforming launchers.

3 (Exhibit No. 8, being a one page
4 letter dated January 30, 2001,
5 addressed to, "Lockheed Martin
6 Missile and Fire Control System -
7 Dallas," was marked.)

8 [REDACTED]: The 30 January 2001 letter
9 from [REDACTED], "Subject: Contract
10 DAAH01-98-C-0138, Launcher Deliveries for January
11 of 2001."

12 MR. DANIELS: And has an Attachment that
13 gives the launchers serial numbers and a brief
14 description of the -- what the deficiencies were,
15 I do believe.

16 [REDACTED]: I'm sorry, could you please
17 describe what the 18 January 2000 document is,
18 again?

19 MR. DANIELS: It appears to be
20 instructions to a [REDACTED] at DCMA,
21 Camden and to [REDACTED] at Lockheed Martin to ship
22 Launchers 99,125 and 343 to Fort Sill. It gives a
23 further description of the launchers and it gives

1 a description of what has to be done to these
2 launchers to retrofit these two launchers.

3 [REDACTED]: Did you indicate that you
4 believe that is an attachment to the January 30th
5 2001 letter that you handed me?

6 MR. DANIELS: Yes.

7 [REDACTED]: To [REDACTED]?

8 MR. DANIELS: Yes.

9 [REDACTED]: The 29 November 2000 letter
10 that you've handed me apparently is at Tab 69 of
11 Army Report Number 2.

12 (Exhibit No. 11, being a one page
13 letter dated 26 February 2002,
14 addressed to, "Mr. W.F. Kennedy,"
15 was marked.)

16 MR. DANIELS: And, in 26 February 2002,
17 here's a letter for Lockheed to continue to
18 deliver -- to continue delivery of upgraded LRIP
19 III M270A1 launchers to a [REDACTED]
20 through circumstances of which I can't identify.

21 [REDACTED]: I'm sorry, circumstances
22 regarding what, that you can't identify?

23 MR. DANIELS: Why they are continuing to

1 accept delivery. It doesn't give a reason why
2 that letter was not needed, it is not in the
3 letter, itself. But, I would assume that delivery
4 had been delayed or something.

5 [REDACTED] Do you have additional
6 documents, Mr. Daniels, at this point?

7 (Exhibit No. 12, being a 4 page
8 document, entitled, "Amendment of
9 Solicitation/Modification of
10 Contract," dated 30 MAR 2001 was
11 marked.)

12 MR. DANIELS: I also have some
13 modifications to the contract 98-C-0138 that gives
14 the conditions for certain launchers to be
15 delivered that did not meet the performance
16 specifications of requirements of the contract.
17 The first Mod Number for 98-C-138 will be Mod
18 Number P00071.

19 (Exhibit No. 13, being a 4 page
20 document, entitled, "Amendment of
21 Solicitation/Modification of
22 Contract, dated 19 DEC 2002 was
23 marked.)

1 MR. DANIELS: The second mod under the
2 same on the, excuse me, the second mod is under
3 Contract DAAH01-00-C-0109. And it, among other
4 things, incorporates a waiver to allow the
5 shipment of non-conformance to a launcher
6 performance specification part. And, the mod
7 number for that is P-00060.

8 (Exhibit No. 14, being a 2 page
9 document, entitled, "Amendment of
10 Solicitation/Modification of
11 Contract," dated 26 SEP 2000, was
12 marked.)

13 MR. DANIELS: The next modification is
14 under Contract DAAH01-98-C-0138, Mod Number
15 P-00054. And what this mod does is give Lockheed
16 Martin permission to deliver launchers that were
17 being shipped prior to release of operational test
18 software.

19 (Exhibit No. 15, being a 6 page
20 document, entitled, "Amendment of
21 Solicitation/Modification of
22 Contract," dated 24 JUL 2002 was
23 marked.)

1 MR. DANIELS: And this modification is
2 under DAAH01-00-C-0109, Mod Number P-00042. This
3 mod gives Lockheed to deliver launchers with
4 suspected failures related to the WIU, W19-CCA
5 FPGA fuze setting, EMI testing component issues.
6 It has a list of the affected parts.

7 (Exhibit No. 16, being a one page
8 document, entitled, "Subject:
9 Retrofit Clarification Meeting with
10 [REDACTED], Legal Assistant,"
11 dated 8 July 2004 was marked.)

12 MR. DANIELS: I would also like to add
13 to that a Memorandum For Record dated 8 July 2004.
14 The subject is, "Retrofit Clarification Meeting
15 with [REDACTED], Legal Assistant." This
16 memorandum is requesting the status of reports
17 that identify whether or not Lockheed Martin met
18 the requirements outlined in the contract to
19 repair defects at no cost to the Government.

20 And, I would also like to add that the
21 Contracting Officer has not issued a response to
22 that letter to date, to that memo, memorandum to
23 date. And that concludes that set of attachments.

1 [REDACTED]: Okay. Thank you.

2 (Exhibit No. 17, being a 4 page
3 document, the first e-mail page
4 being dated Friday, October 04,
5 2002, 9:57 AM was marked.)

6 MR. DANIELS: The next would be a
7 memorandum -- e-mail from [REDACTED],
8 concerning the critical safety performance
9 requirements addressed by FCA Number 573 as it
10 relates to Contract DAAH01-98-C-0138.

11 In this e-mail memorandum, [REDACTED]
12 states, "That the M270A1 Launcher does not meet
13 the Critical Safety Performance Requirements
14 addressed by this FCA Action Item, particularly,
15 in the area of Launcher control, single-point
16 failures, and associated personnel safety without
17 strict reliance on procedures (in violation of the
18 requirements of Mil Standards 882 and Lockheed
19 Martin's Safety Program Policy, in addition to
20 performance requirements)."

21 And, the memorandum, the e-mail is dated
22 October 4th, 2002.

23 [REDACTED]: And, attached to that

1 e-mail is --

2 MR. DANIELS: A copy of the submittal by
3 Lockheed Martin of the matrix, safety matrix that
4 denotes the critical safety hazards identified in
5 the launchers to date, to that date.

6 [REDACTED] And, is that attachment the
7 same attachment that's included at Tab 83 of the
8 Army Report Number 2?

9 MR. DANIELS: Yes, this appears to be
10 the same.

11 [REDACTED] Okay.

12 MR. DANIELS: I have them.

13 [REDACTED] Yesterday, you provided us
14 a document, which we marked as Exhibit 5,
15 entitled, "M270A1 LRIP, Roman Numeral III SAR,
16 Hazard Controls Matrix." And it was a two-page
17 table of hazard risks and control types?

18 MR. DANIELS: Yes.

19 [REDACTED] And, this is also found at
20 Tab 83.

21 MR. DANIELS: I'm sorry?

22 [REDACTED] This is also the one found
23 at Tab 83.

1 [REDACTED]: Yes, I just wanted to
2 confirm if that's the same document that is found
3 at Tab 83?

4 MR. DANIELS: Yes, it appears to be the
5 same.

6 [REDACTED]: Okay, if I can ask you a
7 few questions to follow up on discussions
8 yesterday for us, Mr. Daniels. Regarding the
9 Allegations 3 and 4, involving unsafe launchers.

10 MR. DANIELS: Yes.

11 [REDACTED]: When did you first learn
12 that the Army was accepting defective and unsafe
13 launchers and was deploying those unsafe launchers
14 to soldiers in combat zones?

15 MR. DANIELS: The date I received this
16 October 4th e-mail from Gary Indihar.

17 [REDACTED]: October 4 of what year?

18 MR. DANIELS: 2002.

19 [REDACTED]: So, that's the first time
20 you learned of the acceptance of defective, and
21 unsafe launchers?

22 MR. DANIELS: That they were, indeed,
23 defective, yes.

1 [REDACTED] You also mentioned that
2 they were being deployed to soldiers in combat
3 zones. And, if I recall yesterday, did you say
4 you were going to try to locate a document that
5 indicated and supported that portion of the
6 allegation?

7 MR. DANIELS: Well, I can do that, but
8 if you look at the time frame from which these
9 launchers were accepted, none of the corrective
10 actions that were ever taken, were taken before
11 these launchers were deployed. They were deployed
12 in March of 2003 at the beginning of the
13 operation, Iraqi Freedom, sometime in the March,
14 2003 time frame.

15 And these conditions had not been
16 corrected by that date.

17 [REDACTED] How were you made aware
18 that these launchers that contained these
19 conditions were being deployed in combat zones?

20 MR. DANIELS: In my office, we issued
21 Contractor Technician Support Contracts to both
22 M270A1 launchers and our PDS launchers that were
23 going to be deployed in Iraq. Also, there were,

1 there was rotatable spares that we talked about that
2 were also going to be shipped to Iraq in support
3 of Operation Iraqi Freedom.

4 [REDACTED] I'm sorry, if I could stick
5 with the launchers. How were you made aware that
6 the launchers that you claim had these defects,
7 unsafe defects, that they were actually shipped to
8 Iraq and were the same ones that you are providing
9 support over in Theater.

10 MR. DANIELS: At that time, they were
11 the only M270A1 launchers in inventory.

12 [REDACTED]: How many launchers are we
13 talking about having been produced under that
14 program at that point in time?

15 (Exhibit No. 18, being 18 pages,
16 the first page and e-mail dated
17 Tuesday, May 27, 2003, 11:08 AM was
18 marked.)

19 MR. DANIELS: I'm just reminded, I do
20 have something that has the matrix. It gives a
21 time frame of how many launchers were actually
22 shipped during that time. I would also like to
23 enter, now we are on this subject, a safety chart,

1 dated 22 May 03 from Lieutenant Colonel [REDACTED]

2 [REDACTED].

3 And, in this briefing chart, it gives
4 you the amount, the number of launchers that was
5 accepted under 00-C-0109 and 98-C-0138 to date in
6 the time frame.

7 [REDACTED] Does it indicate that those
8 accepted launchers were deployed into combat
9 zones?

10 MR. DANIELS: No, but the Contractor
11 Support Contracts to the launchers in the field
12 would have been issued out of our office. So, I
13 could probably get you a copy of that contract,
14 and it would give you the number of launchers that
15 actually went and how many contractor support
16 people were sent to support those launchers. I
17 have to look that up.

18 It was my understanding that both HIMARS
19 and M270A1 launchers were deployed during Iraqi
20 Freedom.

21 [REDACTED] And, it's your position
22 that these launchers that were accepted under
23 these safety conditions were deployed in Theater

1 with those safety conditions?

2 MR. DANIELS: Right. And, I think I can
3 say without really looking that not one single
4 launcher between 2000 and 2000, most of 2003 was
5 accepted without conditions.

6 [REDACTED]: What about post 2003?

7 MR. DANIELS: I'm not sure, I was out of
8 the process at that time.

9 [REDACTED]: Yesterday, we discussed
10 briefly conditional releases of equipment, and I'd
11 like to ask you about a full material release. Do
12 you know when these systems were approved for a
13 full material release?

14 MR. DANIELS: No.

15 [REDACTED]: Do you know the conditions
16 under which these launchers were approved for a
17 conditional material release?

18 MR. DANIELS: I do have a draft -- no, I
19 have a signed memorandum from the Safety Office
20 concerning that subject. I don't know whether it
21 was final or not, but I do have a draft copy.

22 [REDACTED]: Are you familiar with what
23 restrictions applied to launches that were

1 delivered and accepted and eventually approved for
2 a conditional material release?

3 MR. DANIELS: Would you repeat that,
4 again?

5 [REDACTED]: Are you aware of the
6 conditions that apply to launches that were
7 subject to a conditional material release?

8 MR. DANIELS: No.

9 [REDACTED]: Are you familiar with the
10 material release process that is used to approve
11 for release equipment to the field?

12 MR. DANIELS: No.

13 [REDACTED]: But, you are confident
14 that, excuse me, are you confident that the
15 launchers that were subject to the conditional
16 material release were deployed into combat zones?

17 MR. DANIELS: I'm confident that no
18 contract conforming launcher or a launcher that
19 has been properly mitigated for the safety hazard
20 listed in the FCA 573, had been mitigated before
21 those launchers were deployed.

22 [REDACTED]: Are all those safety
23 hazards identified in that document Critical

1 Safety Hazards?

2 MR. DANIELS: No, I think there is only
3 three or four catastrophic, some are less than
4 that.

5 [REDACTED]: And, what are those
6 catastrophic?

7 MR. DANIELS: One would be the
8 inadvertent rocket launches. And, the other one
9 would be the electrical shock and the other would
10 be the uncommanded cage moves.

11 [REDACTED]: Were any of those
12 conditions present in the launchers that were
13 shipped into combat, deployed into combat zones?

14 MR. DANIELS: Since the Get-Well Plan
15 did not take effect until two years after those
16 launchers were delivered, there would have been no
17 way it could have been mitigated.

18 [REDACTED]: You first learned of the
19 deployment of these unsafe launchers -- I'm sorry,
20 what time frame was based upon an e-mail that you
21 received from [REDACTED], is that what you had
22 stated just previously?

23 MR. DANIELS: Yes. It was October.

1 [REDACTED] That would be October 4,
2 2002?

3 MR. DANIELS: Yes.

4 [REDACTED] That's when you first
5 became aware that these unsafe launchers were
6 being deployed into combat zones, is that correct?

7 MR. DANIELS: And, of the Catastrophic
8 Safety Hazard listed in the FCA 573.

9 [REDACTED] Okay, were you the Contract
10 Specialist at the time on this contract?

11 MR. DANIELS: No, I was -- wait a
12 minute, let me make sure. Because, when did they
13 put me off this thing? No, I wasn't, to the best
14 of my recollection.

15 [REDACTED] To the best of your
16 recollection, was [REDACTED] who was
17 identified as a copy-furnished on [REDACTED] 4
18 October 2002 e-mail? Was she the Contracting
19 Officer at that time?

20 MR. DANIELS: She was a Contract
21 Specialist, and may have been the Contracting
22 Officer.

23 [REDACTED] On this contract.

1 MR. DANIELS: On that contract.

2 [REDACTED]: Thank you. When you first
3 learned of [REDACTED] concern in this October
4 4, 2002 e-mail, did you bring this concern to
5 anyone's attention in the Contracting Office, that
6 you recall?

7 MR. DANIELS: Yes, I brought it to the
8 attention of both [REDACTED] and [REDACTED]

9 [REDACTED].
10 [REDACTED]: And, she was apprised by
11 Mr. Indihar of that same concern in this e-mail?

12 MR. DANIELS: Yes.

13 [REDACTED]: This e-mail being Exhibit
14 17.

15 [REDACTED]: Yes. Thank you. Exhibit
16 17, yes. And, what do you recall their response
17 at the time to be?

18 MR. DANIELS: Well, I recommended that
19 they did not -- that they should not accept those
20 launchers in that condition.

21 [REDACTED]: And do you recall what
22 their response was?

23 MR. DANIELS: Their response was they

1 accepted those launchers in that condition.

2 [REDACTED] And, they accepted those
3 launchers, to the best of your knowledge, with
4 their full knowledge that these launchers were
5 unsafe, had critical defects and were being
6 deployed to soldiers in combat zones?

7 MR. DANIELS: Yes. According to the --
8 to the e-mail from [REDACTED], those
9 launchers were not safe. I think he says that in
10 the e-mail. But that's what my objection was
11 based on, the Safety Office e-mail, that e-mail.

12 [REDACTED] So, is it your
13 understanding then that the Contracting Official,
14 [REDACTED] and [REDACTED] you just mentioned
15 were aware of these critical defects and with
16 knowledge of these critical defects, continued to
17 accept these defective launchers?

18 MR. DANIELS: Yes.

19 [REDACTED] Knowing that they were
20 being deployed into combat zones?

21 MR. DANIELS: Yes.

22 [REDACTED] And, when these two
23 Contracting Officials apparently indicated to you

1 that they were going to continue to accept these
2 unsafe launchers and have them deployed into
3 combat zones, did you have any further discussions
4 of either the Program Officials, the Legal Office,
5 the AMCOM IG, or the IMCOM Commander?

6 MR. DANIELS: I filed my complaint with
7 the OSC at that point.

8 [REDACTED]: At the point that they
9 continued to accept those launchers.

10 [REDACTED]: But my question was, did
11 you have discussions with the Program Officials,
12 Legal Counsel, the AMCOM IG or any other IG or the
13 Commander of AMCOM, at that time?

14 MR. DANIELS: Not that I recall. I only
15 discussed it with those two individuals.

16 [REDACTED]: And, do you recall around
17 the time that you had those discussions?

18 MR. DANIELS: It would be shortly before
19 the date of that OSC complaint that I filed.

20 [REDACTED]: And that was about what
21 time?

22 MR. DANIELS: I don't know. That was
23 several years ago, I really don't know. It was

1 within months, I would say.

2 [REDACTED] [REDACTED] Are you aware of the time
3 frame when Lockheed Martin stopped delivering and
4 the Acquisition Center stopped accepting unsafe
5 launchers?

6 MR. DANIELS: Yes. I think that was
7 March or April of 2003. I think.

8 [REDACTED] [REDACTED]: March or April of 2003?

9 MR. DANIELS: Yes.

10 [REDACTED] [REDACTED]: Is when you believe the
11 Government, excuse me, Lockheed Martin stopped
12 delivering and you stopped accepting?

13 MR. DANIELS: I can probably give you a
14 closer date than that because I've got a letter
15 here. Oh, I can tell you exactly. Letter dated
16 April 23rd, 2003 from [REDACTED]
17 Administrative Contracting Officer.

18 "Please find below the reasons that DCMA
19 believes the launcher does not meet all terms of
20 the contract." And based on our responsibilities,
21 they will be rejecting supplies or services not
22 conforming in all respects to contract
23 requirements. Let me add that.

1 So, that would be the time frame in
2 which deliveries were stopped.

3 ██████████: And, are you aware of when
4 deliveries resumed?

5 MR. DANIELS: No.

6 ██████████: Did there ever come a time
7 when Lockheed Martin began delivering acceptable
8 launchers that did not contain critical safety
9 defects?

10 MR. DANIELS: To the best of my
11 knowledge, no.

12 ██████████: To the best of your
13 knowledge, Lockheed Martin continued to deliver
14 unsafe launchers that contained critical defects
15 throughout the entire delivery period of the
16 production contract?

17 MR. DANIELS: I'll give you an example.
18 The last exhibit, was it 17? I'm looking for the
19 Memorandum For Record, sir.

20 ██████████: This is 17 and 18, sir.

21 MR. DANIELS: That's not it, it must
22 have been -- there is a Memorandum For Record in
23 there. Yes, Exhibit 16. Where I was trying to

1 ascertain the exact question that you are asking
2 now. And, to date, I have not gotten a response
3 to that question. [REDACTED] was going to
4 meet with a [REDACTED] to find out why we
5 do not have copies of the reports that identify
6 whether or not Lockheed Martin met the
7 requirements outlined in the contract to repair
8 defects at no cost to the Government.

9 I have not received a response to that
10 question to date.

11 [REDACTED]: Are you saying then based
12 upon this 8 July 2004 memorandum, marked Exhibit
13 16, that based upon that exhibit, it's your belief
14 that Lockheed Martin continued to deliver unsafe,
15 critically defective launchers throughout the
16 period of performance of their contract?

17 MR. DANIELS: Without any other
18 information to the contrary, I would say yes.

19 [REDACTED]: Let's mark the April 23,
20 2003 letter that Mr. Daniels has provided us from
21 the Administrative Contracting Officer, [REDACTED]
22 [REDACTED] to Lockheed Martin as Exhibit 19.

23

1 (Exhibit No. 19, being a one page
2 letter dated April 23, 2003,
3 addressed to, "Lockheed Martin
4 Missile and Fire Control - Dallas,"
5 was marked.)

6 [REDACTED] In September, 2000,
7 Lockheed Martin apparently issued a Safety
8 Bulletin as contained in Army Report Number 2, Tab
9 67. Are you familiar with that report, Safety
10 Bulletin, rather?

11 MR. DANIELS: Tab 62?

12 [REDACTED] Tab 67.

13 MR. DANIELS: That's why it wasn't under
14 62. No, I'm not familiar with this at all.

15 [REDACTED] You're not familiar with
16 the Tab 67 document that's marked, excuse me,
17 entitled, "M270A1 Safety Bulletin," with Lockheed
18 Martin's logo on it?

19 MR. DANIELS: No.

20 [REDACTED] It's contained in Army
21 Report Number 2?

22 MR. DANIELS: No, I'm not familiar with
23 that.

1 [REDACTED] Were you previously
2 provided a copy of Army Report Number 2 before
3 this interview?

4 MR. DANIELS: No, I don't recall ever
5 seeing this.

6 [REDACTED] Were you previously
7 provided a copy of Army Report Number 2 before
8 this interview?

9 MR. DANIELS: Yes.

10 [REDACTED] Okay. But, you do not
11 recall seeing Tab 67 with the document described?

12 MR. DANIELS: No.

13 [REDACTED] As the M270A1 Safety
14 Bulletin.

15 MR. DANIELS: No.

16 [REDACTED] For the record, you are
17 reviewing your copy of Army Report Number 2,
18 correct?

19 MR. DANIELS: Yes.

20 [REDACTED] And, for the record, Tab 67
21 is included in your copy, correct?

22 MR. DANIELS: I have to check. My Tab
23 -- my original tab that I've got at home, the tabs

1 weren't numbered. That wasn't -- I'm trying to
2 recall that tab. (Witness examining documents.)
3 It's numbered on the inside. Yeah, I have a copy
4 of it in my -- yes.

5 [REDACTED]: In Army Report Number 2 at
6 Pages 30 to 31. There's a reference to a 20
7 November 2000 letter from Lockheed Martin. In
8 which Lockheed Martin notified [REDACTED], the
9 MLRS, I believe she was the Chief of the Branch
10 that was handling the MLRS Contract in the
11 Acquisition Center. Is that correct?

12 MR. DANIELS: Yes.

13 [REDACTED]: And, in that letter, did it
14 advise [REDACTED] that Lockheed Martin was
15 conducting an investigation of the uncommanded
16 cage movement defect?

17 MR. DANIELS: That's report number 1
18 or 2?

19 [REDACTED]: Army Report Number 2. A
20 November, 20, 2000, Lockheed Martin letter?

21 MR. DANIELS: Yes, may have misplaced it
22 because I think it's missing. Is this on Page 31?

23 [REDACTED]: The bottom of 30 is the

1 reference to the Lockheed Martin letter of
2 November 20th, 2000. It's also contained at Tab
3 68 of DA Report Number 2?

4 MR. DANIELS: Yes. Yes.

5 [REDACTED]: So, are you familiar with
6 that letter?

7 MR. DANIELS: I'm familiar with the
8 condition, but not particularly, that particular
9 letter.

10 [REDACTED]: Okay, and that letter is at
11 Tab 68 of Army Report Number 2?

12 MR. DANIELS: Yes, I am familiar with
13 this letter.

14 [REDACTED]: In reference Army Report
15 Number 2, at Page 33 as well as Tab 75 of that
16 Army Report, January 31st, 2002, SRRE, Final
17 Report that identified a single point failure.
18 Are you familiar with that information?

19 MR. DANIELS: What tab would that be?

20 [REDACTED]: Tab 75.

21 MR. DANIELS: (Witness examining
22 documents.) No, I'm not familiar with this
23 report.

1 [REDACTED] The report is called, "MLRS
2 M270A1, Safety Risk Reduction Report." Final
3 report dated January 31st, 2002, is that the
4 report found at Tab 75?

5 MR. DANIELS: Yes.

6 [REDACTED] And you indicate that you
7 are not familiar with that report?

8 MR. DANIELS: No.

9 [REDACTED] At Tab 77 of Army Report
10 Number 2, is a 31 January 02 memorandum from the
11 Chief of the AMCOM Safety Office. Are you
12 familiar with that document?

13 MR. DANIELS: Yes, I am. As a matter of
14 fact, this is one of the copies I wanted to --
15 okay, I am familiar with this.

16 [REDACTED] At Tab 79 of Army Report
17 Number 2, is a February 2002, "Commanding
18 General's Determination."

19 MR. DANIELS: Yes.

20 [REDACTED] And are you familiar with
21 that document?

22 MR. DANIELS: No.

23 [REDACTED] Can you take a moment just

1 to read that document at this point in time,
2 Mr. Daniels?

3 MR. DANIELS: Yes. (Witness complying
4 with request.) Yes.

5 [REDACTED]: And, does that
6 determination reflect a decision by the General to
7 issue a conditional release?

8 MR. DANIELS: Yes, for training, not
9 tactical or deployment.

10 [REDACTED]: I will ask you to turn to
11 Tab 89 of DA Report Number 2, which contains a
12 June 26th, 2003 memo signed by [REDACTED]
13 [REDACTED], Contracting Officer?

14 MR. DANIELS: Yes.

15 [REDACTED]: Are you familiar with that
16 document?

17 MR. DANIELS: (Witness examining
18 documents.) No, I'm not.

19 [REDACTED]: Would you please turn to
20 Tab 82 of DA Report Number 2, which is a 27 August
21 03 document, "Subject: M270A1 Safety
22 Assessment/Safety and Health Data Sheet?"

23 MR. DANIELS: No, I'm not.

1 [REDACTED]: You are not familiar with
2 that document?

3 MR. DANIELS: No.

4 [REDACTED]: When you say you are not
5 familiar with these documents, Mr. Daniels, what
6 exactly do you mean?

7 MR. DANIELS: This is the first time
8 I've seen them or they were provided as part of a
9 much larger document and I didn't take the time to
10 look at it individually.

11 [REDACTED]: Okay. Thank you. At Tab
12 91 of Army Report Number 2, is a sworn statement
13 by [REDACTED]. Are you familiar with [REDACTED].
14 [REDACTED]

15 MR. DANIELS: Yes.

16 [REDACTED]: Who was -- in what capacity
17 was [REDACTED] employed back in 2002, 2003 time
18 frame. Do you -- were you --

19 MR. DANIELS: And to the best of my
20 recollection, he was employed by the AMCOM Safety
21 Office working the MLRS system.

22 [REDACTED]: And if I draw your
23 attention to the next to the last paragraph up

1 from the bottom, in which [REDACTED] [REDACTED] states that,
2 "The allegation that unsafe launchers were
3 actually sent to the field is an exaggeration of
4 facts."

5 MR. DANIELS: I take issue to that
6 statement, based on the statement that he made in
7 his October, 2000 memo, e-mail to [REDACTED] [REDACTED]
8 [REDACTED]. I don't know why all of a sudden he
9 thinks there are -- I just don't know why he would
10 say that at this point.

11 [REDACTED]: Have you seen that
12 document, that sworn statement before today?

13 MR. DANIELS: Yes, we went briefly over
14 it yesterday.

15 [REDACTED] [REDACTED]: Before yesterday, had you
16 seen it?

17 MR. DANIELS: I've seen it, but I didn't
18 read it. I never knew it was in here. I never
19 read the statement.

20 [REDACTED]: Okay. Having just drawn
21 your attention to those documents, and I know you
22 haven't had time since I've done that, to study
23 those or read those right now, but based upon your

1 quick examination of those documents, does your
2 examination now give you any reason to question
3 the allegations regarding the fielding of
4 critically unsafe launchers to soldiers in the war
5 zone?

6 MR. DANIELS: No, because Number One, I
7 never received the information I requested on the
8 corrected action. Number 2, the only M270A1
9 Launchers in the inventory at that time had all
10 been accepted on a conditional basis. And, there
11 is no evidence that I've seen that those safety
12 hazards have been mitigated by the Government.

13 I have asked for that information time
14 and time again, but it never appears.

15 [REDACTED]: And, who have you asked?

16 MR. DANIELS: Going through the OSC,
17 I've been trying to get the answers.

18 [REDACTED]: I understand. If it's okay
19 with you, Mr. Daniels, I would like to just take a
20 ten minute break. I think I have finished up on
21 this particular topic for now, and we'd like to
22 move on to another.

23 But before I do, maybe a ten minute

1 break would be in order. Is that okay with you?

2 MR. DANIELS: Yes.

3 [REDACTED]: Great, so we will meet back
4 at approximately 10:10.

5 MR. DANIELS: Yes.

6

7 (Brief recess.)

8

9 [REDACTED]: Are you ready, Mr. Daniels?

10 MR. DANIELS: Yes.

11 [REDACTED]: This is [REDACTED]

12 continuing the interview with Mr. Daniels,
13 approximately, 10:15.

14 Before I move on to some follow-up I
15 have, Mr. Daniels, regarding the fifth allegation
16 of the five Fire Control Systems. Yesterday,
17 there was another document that you had
18 referenced. We talked about it, it was a
19 negotiation memo pertaining to the Reduced Range
20 Practice Rocket.

21 MR. DANIELS: Practice Rocket.

22 [REDACTED]: Were you able to find a
23 copy of that before we came here this morning?

1 MR. DANIELS: No, I wasn't able to print
2 out a copy, but I may have to just go through my
3 manual files to find it for you.

4 [REDACTED]: Okay, I'd appreciate that.
5 Thank you. Turning now to Allegation 5, which as
6 I mentioned, deals with the five Fire Control
7 Systems. Let me turn to Page 8 of the OSC
8 referral letter, of 20 August 2003. And, I'm on
9 Page 8 of that referral letter.

10 I just want to go through the sequence
11 of events here so that I can understand the
12 allegation and where you believe these fire
13 control systems were taken, where they were moved,
14 how they were replaced.

15 So, if I could, I'd like to start with
16 that allegation on Page 8. And, it begins with an
17 allegation that [REDACTED] by letter dated
18 October 15, 2002, which is at Tab 37, I believe we
19 discussed it yesterday.

20 MR. DANIELS: Yes.

21 [REDACTED]: That she permitted Lockheed
22 Martin to deliver the five FCSs under Contract
23 C-0109 from which Fire Control System equipment

1 had been removed without adjusting the price of
2 the launchers to reflect that missing equipment.

3 MR. DANIELS: Yes.

4 [REDACTED]: And, that was, again, in a
5 letter that she sent signed on 15 October 2002,
6 again, that's at Tab 37. Is that correct?

7 MR. DANIELS: Yes.

8 [REDACTED]: The allegation goes on
9 that, that based upon your review of inventory
10 records and first I'd stop right there and ask,
11 "Do you recall what particular inventory records
12 those were?"

13 MR. DANIELS: That would be the exhibit
14 I presented yesterday that I received from the
15 Administrative Contracting Officer and the
16 Government property administrator.

17 [REDACTED]: And, would that be the
18 document we've marked as Exhibit 6?

19 MR. DANIELS: Yes.

20 [REDACTED]: That you provided us
21 yesterday?

22 MR. DANIELS: Yes.

23 [REDACTED]: Okay. Thank you. And, did

1 the facts sheet on Exhibit 6 is dated 5/28/03
2 addressed to Clarence Daniels, that would be you?

3 MR. DANIELS: Yes.

4 [REDACTED]: And, would that then be the
5 first time that you became aware of this
6 information?

7 MR. DANIELS: Yes.

8 [REDACTED]: Thank you. So, based upon
9 your review of these inventory records, the
10 allegation continues that you suspected that the
11 Government directed Lockheed Martin to install the
12 five FCSs that were removed from these M270A1
13 launchers onto five other M270A1 Launchers that
14 were in Government inventory, is that right?

15 MR. DANIELS: Yes. Located at Red
16 River.

17 [REDACTED]: Okay, located at Red River.
18 And, that these launchers that were at Red River,
19 it's alleged had had their FCSs improperly
20 removed?

21 MR. DANIELS: Yes.

22 [REDACTED]: And, I would assume that
23 would have been sometime before these FCSs arrived

1 at Red River.

2 MR. DANIELS: Yes.

3 [REDACTED] When did you become aware
4 of the improper removal of the FCSs that were at
5 Red River that's alleged in Allegation 5?

6 MR. DANIELS: As a result of looking at
7 the background to that letter that [REDACTED]
8 [REDACTED] wrote.

9 [REDACTED] The background to the
10 October 15th letter?

11 MR. DANIELS: Yes.

12 [REDACTED] Do you recall what that
13 background information involved?

14 MR. DANIELS: It basically said it wants
15 to accelerate delivery of some launchers already
16 located at Red River that were already missing
17 fire control systems.

18 [REDACTED] Do you recall the nature of
19 that document that you were looking at?

20 MR. DANIELS: I have a copy of it that I
21 can get you.

22 [REDACTED] Okay, thank you. And,
23 those would be the relevant documents then that I

1 mentioned in the allegation that suggests that the
2 FCSs were removed from the launchers in inventory
3 at Red River?

4 MR. DANIELS: Yes.

5 [REDACTED]: And, that they had been
6 illegal transferred to the High Mobility Artillery
7 Rocket System Launchers?

8 MR. DANIELS: Yes.

9 [REDACTED]: What we refer to as HIMARS,
10 H-I-M-A-R-S?

11 MR. DANIELS: Yes.

12 [REDACTED]: And, why do you believe
13 that the transfer of the five FCSs from the M270A1
14 Launchers to the HIMARS Launchers was illegal?

15 MR. DANIELS: In the original
16 solicitation and award of the contract.

17 [REDACTED]: I'm sorry, the contract
18 being the...

19 MR. DANIELS: The 98-C-0138.

20 [REDACTED]: That would be the MLRS
21 Production Contract?

22 MR. DANIELS: Yes, LRIP 1 and 2.

23 [REDACTED]: Low Rate Initial Production

1 Contract?

2 MR. DANIELS: Yes.

3 [REDACTED]: Thank you.

4 MR. DANIELS: Initially, it was planned
5 to buy SPARES, Fire Control System SPARES for
6 HIMARS under that contract.

7 [REDACTED]: I'm sorry, I didn't hear
8 that.

9 MR. DANIELS: Originally, it was planned
10 by the Project Office to buy HIMARS Fire Control
11 Systems SPARES, as spares under that contract.

12 [REDACTED]: From the HIMARS Program, is
13 that what you said?

14 MR. DANIELS: Yes, for the HIMARS
15 Program. They were going to -- this is an M270A1
16 Program, this was. But they wanted to buy SPARES
17 as part of the buy of the M270A1 Contract.

18 But, the Legal Advisor, [REDACTED]
19 at that time, informed the Program Office that the
20 funding was incorrect and that we could not buy
21 HIMARS SPARES with M270A1 funds, under that
22 contract.

23 [REDACTED]: And, so is it for that

1 reason that you believe that the removal of the
2 FCS --

3 MR. DANIELS: At Red River.

4 [REDACTED] [REDACTED]: At Red River from the MLRS
5 Systems to the HIMARS was illegal?

6 MR. DANIELS: Right, because they went
7 about it in a round about way. They waited until
8 after the M270A1 Launchers had been accepted.
9 Then, they stripped those launchers of the Fire
10 Control System, that had been bought with M270A1
11 money, which was a funding violation because they
12 were going to HIMARS.

13 [REDACTED] [REDACTED]: They were transferred to
14 the HIMARS program?

15 MR. DANIELS: Right. They did that to
16 get around the restrictions on the funding of
17 buying HIMARS SPARES under the M270A1 contract.

18 [REDACTED] [REDACTED]: So, then am I correct in
19 stating that the removal of the five FCS systems
20 from the MLRS Launchers and turning them over to
21 the HIMARS program to put on their launchers is
22 what is alleged to be illegal? Is that correct?

23 MR. DANIELS: Yes, according to the way

1 the Legal Advisor explained it to the Program
2 Office, you could not buy SPARES for HIMARS
3 Program with the funding for M270A1 Launchers.

4 [REDACTED]: The allegation continues
5 that these now incomplete M270A1 Launchers were
6 discovered in the inventory when the Army was
7 preparing to send these launchers to Operation
8 Iraqi Freedom, is that correct?

9 MR. DANIELS: I would assume that based
10 on the background information that was given in
11 support of that letter.

12 [REDACTED]: Are you referring to the
13 documentation that indicated that the Army G-3 had
14 asked to expedite the fielding of the launchers to
15 Iraq?

16 MR. DANIELS: Yes.

17 [REDACTED]: Thank you.

18 MR. DANIELS: I believe there is a copy
19 of that in there.

20 [REDACTED]: I believe that's correct,
21 in the report, yes.

22 MR. DANIELS: Yes.

23 [REDACTED]: The allegation continues

1 that, "It appears the Program Officer's solution
2 to the dilemma of the missing equipment, that
3 would be referring to now the five MLRS Launchers
4 that are at Red River, that had had the FCSS
5 removed for the HIMARS program," is that correct?

6 MR. DANIELS: Yes.

7 [REDACTED]: That the solution was to
8 simply permit Lockheed Martin to remove five more
9 FCS components from other launchers scheduled for
10 delivery and then to accept the five stripped
11 launchers at full price? Is that correct?

12 MR. DANIELS: That is according to what
13 the letter says, yes.

14 [REDACTED]: According to what letter?

15 MR. DANIELS: [REDACTED]
16 letter, yes. That would be correct if you follow
17 the logic and the background information given in
18 that that supported that letter.

19 [REDACTED]: Just for the record, that's
20 the letter that you have not yet produced, but you
21 will look for to try and give it to us.

22 MR. DANIELS: You have a copy of [REDACTED]
[REDACTED] letter.

1 [REDACTED] [REDACTED]: I believe you are referring
2 to the 15 October 2002 letter, the [REDACTED] letter
3 that's at Tab 37.

4 MR. DANIELS: Right, and what you don't
5 have is the background information that went along
6 with the letter.

7 [REDACTED] [REDACTED]: Right.

8 MR. DANIELS: That's what I'm going to
9 get.

10 [REDACTED] [REDACTED]: Thank you for qualifying
11 that. Can you clarify for me the five stripped
12 launchers that are mentioned in the allegation
13 that the Government accepted at full price? When
14 did that transaction occur?

15 MR. DANIELS: That happened as a result
16 of [REDACTED] letter, 15 October 02
17 letter and the DD-250 reflect that. That's what
18 actually happened.

19 [REDACTED] [REDACTED]: So, are you saying then
20 when [REDACTED] in October of 2002
21 authorized the shipment of five FCS Launchers
22 without their fire control systems, we paid full
23 price?

1 MR. DANIELS: Full price.

2 [REDACTED]: And, your belief, position
3 is, assertion is that we should have deducted the
4 cost of five FCS Launchers?

5 MR. DANIELS: Absolutely.

6 [REDACTED]: If the five launchers --
7 the five FCS systems were delivered to the
8 Government, accepted and paid for, initially.
9 And, those five launchers were then diverted to
10 the HIMARS program, is that correct? They were
11 taken off the 270A1 Launchers and diverted to the
12 HIMARS Program and put on the HIMARS system?

13 MR. DANIELS: It all depends on which
14 scenario you are talking about. Are you talking
15 about the original stripping of the launchers that
16 were already at Red River or the ones that were
17 stripped from the launchers coming from the 0109?

18 [REDACTED]: Clarify that for me.

19 MR. DANIELS: Remember, there are
20 already launchers at Red River that had been
21 stripped of their fire control systems and sent to
22 HIMARS. That's a separate transaction.

23 [REDACTED]: Okay. I understand that.

1 What's the second transaction now?

2 MR. DANIELS: The second transaction
3 would be the ones that were not delivered under
4 0109, when were they delivered and where to?

5 [REDACTED]: Are you talking about FCS
6 or launchers?

7 MR. DANIELS: Fire control systems.
8 Remember they were shipped short, the fire control
9 systems. Now, what I want to see is when were
10 those fire control systems that were shipped short
11 under 0109, when were they shipped and to where?
12 There's no record of them ever being received by
13 the Government.

14 There's no DD-250 or anything that I
15 could put my hands on to tell me where they went,
16 or where they are now.

17 [REDACTED]: So, if I understand
18 correctly, and please correct me if I am wrong.
19 Lockheed Martin shipped full-up launchers that had
20 FCS Systems on it to Red River, but the Program
21 Office directed that those five, five of those
22 FCSs be diverted and provided to the HIMARS
23 Program?

1 MR. DANIELS: As a separate transaction,
2 I agree.

3 [REDACTED]: Right. In that
4 transaction, did Lockheed Martin deliver five
5 full-up launchers with the FCSs systems for which
6 they were entitled to be paid at that point in
7 time?

8 MR. DANIELS: Yes.

9 [REDACTED]: And, then subsequently, if
10 I understand this correctly, those five FCS
11 Systems were stripped from those launchers and
12 provided to the HIMARS program?

13 MR. DANIELS: Yes.

14 [REDACTED]: And, as you just indicated,
15 based upon the advice of [REDACTED] you believed
16 that that was a physical violation to use those
17 five FCS systems that were purchased for the MLRS
18 Program on the HIMARS Program?

19 MR. DANIELS: It appeared to be the
20 Program Office's intent to avoid a physical
21 violation, when they knew full well that it was.
22 But, the point I am making here is that the
23 Government still has not received the five fire

1 control systems that we paid for in full, but were
2 shipped short on 0109.

3 [REDACTED]: But, didn't we pay for them
4 in the first transaction?

5 MR. DANIELS: No, we did not.

6 [REDACTED]: And then -- well, the first
7 transaction, I am talking about. You said we did
8 pay for them, but we took the five FCS and as you
9 said and illegally diverted them to the HIMARS
10 Program?

11 MR. DANIELS: And, they became
12 Government-furnished property at that point to the
13 HIMARS program. What should have happened, there
14 should have been five fire control systems shipped
15 from the 0109 contract to Red River Army Depot if
16 you follow the instructions to the letter from
17 [REDACTED]. That is not what happened.

18 What happened was the ones that had been
19 previously stripped and sent to Red River and sent
20 to HIMARS were then shipped back to Red River.
21 It's two totally different contracts. Had nothing
22 to do with 0109.

23 [REDACTED]: Let me understand that

1 point you made. The five FCS Systems that were
2 shipped to the HIMARS Program, you are saying this
3 documentation indicates that those same five FCSs
4 were shipped back to Red River?

5 MR. DANIELS: Yes, that's exactly what
6 that says.

7 [REDACTED]: To Red River.

8 MR. DANIELS: That's exactly what that
9 says. This is the HIMARS Contract they were
10 shipped to and shipped back from.

11 [REDACTED]: Okay, so if I understand
12 this correctly, then, what you're telling me is
13 that the five FCS components that the MLRS Program
14 diverted to the HIMARS Program, eventually, the
15 HIMARS Program sent those same five FCS systems
16 back to Red River?

17 MR. DANIELS: And, they are here. It
18 had nothing to do with 0109. That's a completely
19 separate transaction.

20 [REDACTED]: Right 6 here, being
21 Exhibit 6.

22 MR. DANIELS: Exhibit 6.

23 [REDACTED]: Thank you. Do you know

1 [REDACTED]. Do you know the name?

2 MR. DANIELS: Yeah, I know his name. I
3 am familiar with him.

4 [REDACTED]: Can you tell me to the best
5 of your knowledge, who he is and what position he
6 is in?

7 MR. DANIELS: I do believe he is the
8 Quality Assurance or Product Assurance at the ACO
9 office.

10 [REDACTED]: And he would work for the
11 Defense Contract Management Agency?

12 MR. DANIELS: Yes.

13 [REDACTED]: Are you aware of what
14 [REDACTED] responsibilities would have
15 included in regards to the MLRS Program at the
16 time we're talking about, the shipment of the FCS
17 components?

18 MR. DANIELS: Yes. Once he received
19 that letter from, authorization from the
20 Contracting Officer to ship those M270A1 Launchers
21 from 0109, he would have done exactly that.

22 [REDACTED]: Do you have any reason to
23 doubt [REDACTED], I'm sorry, have you dealt

1 with [REDACTED] on an on-going basis?

2 MR. DANIELS: On a minor basis, yes.

3 [REDACTED]: Have you had any reason to
4 question --

5 MR. DANIELS: No.

6 [REDACTED]: -- that he did what he was
7 told by the Contracting Officer?

8 MR. DANIELS: No.

9 [REDACTED]: Okay. If I could ask you
10 to turn to Tab 39 of Army Report Number 1?

11 MR. DANIELS: I'm there.

12 [REDACTED]: What document are you
13 looking at under Tab 39, Mr. Daniels?

14 MR. DANIELS: Oh, I went to Page 39.

15 [REDACTED]: At my Tab 39 is a document
16 entitled, "Agent's Investigation Report." That's
17 dated 25 January 06.

18 MR. DANIELS: Okay, I'm there.

19 [REDACTED]: You have that in front of
20 you now?

21 MR. DANIELS: Yes.

22 [REDACTED]: If I could ask you to look
23 at the middle paragraph of that report, that

1 begins with, "[REDACTED]" in capitalized
2 letters.

3 MR. DANIELS: Yes.

4 [REDACTED]: It reads that, "[REDACTED]"
5 stated that there had been fire control systems
6 transferred from the M270A1 to the HIMARS Weapon
7 System due to the fact that HIMARS was preparing
8 to be deployed to Korea, but the HIMARS production
9 line was delayed and HIMARS funding was lacking."

10 MR. DANIELS: Yes.

11 [REDACTED]: Is that correct?

12 MR. DANIELS: Yes, according to what
13 he's saying here.

14 [REDACTED]: Are you aware as to whether
15 or not the HIMARS actually deployed to Korea?

16 MR. DANIELS: No, I wouldn't know for
17 sure, no.

18 [REDACTED]: If the HIMARS had been
19 deployed to Korea, and these would be the HIMARS
20 [REDACTED] indicated these FCS systems had
21 been installed on? Is that correct, is that what
22 he is indicating in that statement?

23 MR. DANIELS: Without the Contract

1 Numbers, it's confusing to me.

2 [REDACTED]: Okay. Assuming, it's the
3 same contract, so I won't ask you to verify that
4 it is. But, just assume that it is the same
5 contract.

6 MR. DANIELS: It doesn't give a time
7 frame. Was it the first transaction or the second
8 transaction? I have no way of knowing.

9 [REDACTED]: Well, was there a second
10 transaction when --

11 MR. DANIELS: The second transaction.

12 [REDACTED]: -- when FCS units were sent
13 back to the HIMARS Program and installed on HIMARS
14 units, launchers?

15 MR. DANIELS: No, the second transaction
16 would have been when [REDACTED] sent
17 the letter to ship short and then ship to short
18 systems to the FCS, and that's not what it's
19 saying.

20 [REDACTED]: Right. So, when
21 [REDACTED] is referring to the fire control
22 systems transferred from the M270A1 to the HIMARS
23 program, he would be talking about what you would

1 characterize as the first transaction, wouldn't
2 he?

3 MR. DANIELS: Without knowing what
4 contract and the dates involved, there's no way I
5 could tell.

6 [REDACTED] Again, assuming that to be
7 the case and that these HIMARS were deployed to
8 Korea, would it still be your position that those
9 same fire controls systems that were placed on
10 those HIMARS that were deployed to Korea would
11 have been the same ones that the documentation
12 that you provided at Exhibit 6 was sent back to
13 the MLRS Program?

14 MR. DANIELS: I have no way of knowing.
15 There's no documentation for me to tell. I have
16 no way of knowing. There's one question I would
17 like to have answered, where it says in January of
18 2006 six M270A1 fire control systems were
19 delivered to Red River to replace those going to
20 HIMARS programs years ago.

21 I would like to know whether or not the
22 Government was paid for those when they were
23 shipped. Where are the DD-250s?

1 [REDACTED]: Do you want to make a note
2 of that, please, for me?

3 [REDACTED]: Yes.

4 [REDACTED]: If I can ask you to turn to
5 Tab 35 of the same DA report, and that will be
6 Report Number 1. There is a document entitled,
7 "Summary of Investigative Activity," one page
8 document.

9 MR. DANIELS: Yes, I'm there.

10 [REDACTED]: The bottom half of that
11 page, there is a short paragraph that begins,
12 "Agent's note." Do you see that note?

13 MR. DANIELS: Yes.

14 [REDACTED]: Are you familiar with this
15 document?

16 MR. DANIELS: No, I've seen it, but I
17 have not read it.

18 [REDACTED]: You haven't read it. The
19 Agent's note states that as of this date, the date
20 being January 23rd, 2006, according to the Special
21 Agent, whose summary we are reading, the note
22 states, "LOCKHEED has delivered all fire control
23 systems and MLRS Contracted."

1 "The issue doesn't seem to be with
2 LOCKHEED, but the Project Management Office, who
3 authorized the transfer between systems and the
4 expenditure of MLRS funds to pay for HIMARS." Do
5 you agree with that statement or not?

6 MR. DANIELS: Without knowing the
7 contracts involved, there's no way I could tell.

8 ██████████: Okay.

9 MR. DANIELS: Not seeing the DD-250s for
10 the ones that were shipped short under 0109 in
11 accordance with that letter, there's no way I can
12 tell. I don't know whether that involves the
13 first transaction or the second. There's no way I
14 can tell.

15 ██████████: And, I understand that your
16 position to the contrary is based upon the Exhibit
17 6 documents that you've provided us, is that
18 correct?

19 MR. DANIELS: Yes, and the fact that to
20 date, they have not produced DD-250s to denote a
21 no-cost delivery of the five shipped short fire
22 control systems that were shipped short in October
23 of that year.

1 [REDACTED] May I have Exhibit 6,
2 please?

3 [REDACTED] You have it, sir.

4 [REDACTED] Mr. Daniels, I refer you to
5 Exhibit 6, which you provided us. Do you have a
6 copy of that, Mr. Daniels, in front of you?

7 MR. DANIELS: I don't have it in front
8 of me, but I can pretty much follow along.

9 [REDACTED] I'd like to go through
10 Exhibit 6 with you so I understand what is in this
11 exhibit. In the first is a Fax Header Sheet.
12 Mr. Rosen has handed Mr. Daniels a copy of Exhibit
13 6, is that correct?

14 MR. DANIELS: Yes.

15 [REDACTED] The first page is entitled,
16 "Fax Header Sheet", is that correct?

17 MR. DANIELS: Yes.

18 [REDACTED] And, at the top of that
19 page, it has a fax line that indicates the fax was
20 sent from DCMA May 28th, 2003, is that correct?

21 MR. DANIELS: Yes.

22 [REDACTED] And, this is Page one of
23 that fax?

1 MR. DANIELS: Yes.

2 [REDACTED]: And, was this fax sent to
3 you, Mr. Daniels?

4 MR. DANIELS: Yes.

5 [REDACTED]: And, who is -- I can't
6 really read the name on the front line, maybe you
7 can?

8 MR. DANIELS: It's [REDACTED]

9 [REDACTED]

10 [REDACTED]: And, who is [REDACTED]?

11 MR. DANIELS: She's a woman.

12 [REDACTED]: Oh, and who is [REDACTED]?

13 MR. DANIELS: She's the Government
14 Property Administrator for DCMC, Dallas, for
15 Lockheed Martin.

16 [REDACTED]: Thank you. And, it
17 indicates that the fax consists of fifteen pages,
18 including the header sheet?

19 MR. DANIELS: Yes.

20 [REDACTED]: The subject of the Fax
21 Header Sheet, can you call out to me what the
22 subject line is?

23 MR. DANIELS: It's the abbreviation for

1 fire control units.

2 [REDACTED]: So, that's FCU's?

3 MR. DANIELS: Yes.

4 [REDACTED]: Thank you. And, do you
5 recall the circumstances under which DCMA provided
6 this fax to you?

7 MR. DANIELS: This was sent to me as a
8 result of me asking what happened to the fire
9 control systems that were shipped short under
10 0109, and this is the response that I received.

11 [REDACTED]: Okay. And at the time,
12 were you a Contract Specialist on this contract?

13 MR. DANIELS: This would be -- yes. I
14 believe so.

15 [REDACTED]: This would be May 28th, May
16 28th, 2003, you were the contract specialist on --

17 MR. DANIELS: I'm not sure when I was
18 taken off there. I believe I was. I'm not sure
19 exactly when.

20 [REDACTED]: And, what contract are we
21 referring to?

22 MR. DANIELS: Contract DAAH01-98-C-0138.

23 Excuse me, DAAH01-00-C-0109.

1 [REDACTED] So, that's the follow-on
2 firm-fixed price contract for M270A1 launchers, is
3 that correct?

4 MR. DANIELS: Yes.

5 [REDACTED] The next page is the
6 exhibit, appears to be part of that same facsimile
7 transmission, Page Numbered 15 of 15, is that
8 correct? Is that what you have in front of you?

9 MR. DANIELS: Yes.

10 [REDACTED] Can you tell me what this
11 document is? At the bottom it is styled, "Request
12 For Shipment."

13 MR. DANIELS: It is a request for
14 shipment from Lockheed Martin to Red River Army
15 Depot.

16 [REDACTED] What is a Request For
17 Shipment Document, what purpose does it serve?

18 MR. DANIELS: It serves to denote the
19 shipment of -- the movement of Government assets
20 to a different location.

21 [REDACTED] So, this denotes the actual
22 shipment as opposed to, as it is styled, "A
23 Request For Shipment."

1 MR. DANIELS: Yes, this is what it does
2 because it has a Shipping Control Number here at
3 the bottom. It is dated -- they are all dated.

4 [REDACTED] And it's dated October
5 16th, 2002, is that correct?

6 MR. DANIELS: Yes.

7 [REDACTED] So, as you understand, this
8 document is a document that Lockheed Martin
9 generated?

10 MR. DANIELS: Yes, it appears by the
11 title and the division name, "Lockheed Martin
12 Vought Systems, P. O. Box 1015 Camden, Arkansas."

13 [REDACTED] And this document, this
14 Lockheed Martin document was addressed to the Red
15 River Army Depot, is that correct?

16 MR. DANIELS: Yes, "Attention, Ken
17 Kelley."

18 [REDACTED] And, there are a number of
19 boxes that can be checked near the top of this
20 form. On the right hand side of the form?

21 MR. DANIELS: Yes.

22 [REDACTED] There is a box checked.
23 What box is checked?

1 MR. DANIELS: The, "miscellaneous," is
2 checked.

3 [REDACTED] And, at the miscellaneous,
4 it says "(Explain),"

5 MR. DANIELS: Yes.

6 [REDACTED] Can you point out to me
7 where the explanation is for this request for
8 shipment document?

9 MR. DANIELS: Other than having the
10 Shipping Control Number and the authorizing
11 signature on it.

12 [REDACTED] And, what would the
13 Shipping Control Number indicate?

14 MR. DANIELS: I would imagine that it
15 was used by the freight forwarder, whoever they
16 used.

17 [REDACTED] The freight forwarder
18 being?

19 MR. DANIELS: The Panther II, I believe.

20 [REDACTED] So, that would be the
21 entity that actually transported?

22 MR. DANIELS: No, wait a minute, it
23 says, "Free On Board," here, "Via Hot Shot." That

1 is the name of the trucking company.

2 [REDACTED] Okay, so the Shipping
3 Control Number belongs to whom, then?

4 MR. DANIELS: I would imagine it would
5 be, "Free On Board, Via Hot Shot," H-o-t, S-h-o-t.

6 [REDACTED] So, it would belong to Hot
7 Shot, is that the case, the Shipping Control
8 Number?

9 MR. DANIELS: I don't know. Maybe it
10 would be -- maybe the person that signed it could
11 clarify that. I don't know.

12 [REDACTED] And, the signature of the
13 person who signed it is?

14 MR. DANIELS: Appears to be Robin Bray.

15 [REDACTED] And, do you know who Robin
16 Bray is?

17 MR. DANIELS: No, I do not.

18 [REDACTED] Does Fox -- I believe you
19 just referred to, "Our PD Number." And, it says,
20 "Panther II," Roman Numeral II. Do you know what
21 that means?

22 MR. DANIELS: No.

23 [REDACTED] There is a matrix, if you

1 will, in the middle of that, of this document that
2 has columns reflecting Contract Item Number,
3 quantity, part number, description, unit price and
4 total amount, is that correct?

5 MR. DANIELS: I don't see a unit price.
6 I see units and part numbers and serial numbers.

7 [REDACTED]: Well, but there is a
8 caption for unit price, is that correct? And,
9 total amount, even though those boxes are empty?

10 MR. DANIELS: Oh, yes. Uh-huh.

11 (Affirmative response.)

12 [REDACTED]: Can you explain for me
13 what the nomenclature and other designations that
14 are included under the headings of Contract Item
15 Number, quantity, part number and description
16 signify?

17 MR. DANIELS: These are all acronyms for
18 different line replaceable units, components of
19 the fire control system.

20 [REDACTED]: I'm sorry, these are
21 components of a fire control system?

22 MR. DANIELS: Fire control system, yes.

23 [REDACTED]: For what system?

1 MR. DANIELS: It doesn't identify a
2 system. It could either be HIMARS or M270A1.

3 [REDACTED]: Could it be any other fire
4 control, any other system that has a fire control
5 system?

6 MR. DANIELS: Judging by the part
7 number, I would say no.

8 [REDACTED]: So, you are familiar with
9 these part numbers, then?

10 MR. DANIELS: Yeah, they look familiar.

11 [REDACTED]: And, they look familiar for
12 what reason? Have you seen these before?

13 MR. DANIELS: I looked at the part
14 numbers for the major equipment and I'm familiar
15 with some of them.

16 [REDACTED]: And, they look familiar in
17 relationship to what other equipment?

18 MR. DANIELS: HIMARS and M270A1 fire
19 control systems.

20 [REDACTED]: Both?

21 MR. DANIELS: Yes.

22 [REDACTED]: So, they would have this
23 same?

1 MR. DANIELS: It's my understanding they
2 were interchangeable.

3 [REDACTED]: So, that the fire control
4 system components would have the same part number,
5 whether they were...

6 MR. DANIELS: HIMARS or M270A1.

7 [REDACTED]: Thank you.

8 MR. DANIELS: Nine replaceable units.

9 [REDACTED]: And, in the bottom left
10 hand side, there are numbers and letters. Are you
11 familiar? Excuse me, can you explain what those
12 mean, sir?

13 MR. DANIELS: They appear to be gross
14 weight and box number and type, I have no idea
15 what those mean. Other than the gross weight, it
16 appears to be four and fifty pounds, I would
17 guess, 481 pounds, 451 pounds, I'm not sure.

18 [REDACTED]: Did you, in the course of
19 your duties as a Contract Specialist, did you
20 routinely see these type of documents, review
21 them, or otherwise come across these types of
22 documents?

23 MR. DANIELS: No, I'm usually familiar

1 with just the DD-250s.

2 [REDACTED]: Which is?

3 MR. DANIELS: The shipping and receiving
4 reports. These are not documents we would
5 ordinarily handle in the current Contracting
6 Office because we rarely do these types of
7 actions.

8 [REDACTED]: Now, you pointed out that
9 this document we're looking at contains Lockheed
10 Martin Vought Systems name at the top of the
11 document. Is that correct?

12 MR. DANIELS: Yes.

13 [REDACTED]: Do you know whether or not
14 Lockheed Martin prepared this document?

15 MR. DANIELS: I have no idea. I am not
16 familiar with the people that signed them.

17 [REDACTED]: Is it, to the best of your
18 knowledge, is this document filled out by a
19 contractor exclusively, or is it sometimes filled
20 out by a Government representative, a Contract
21 Management COR Representative? Are you aware?

22 MR. DANIELS: I have no idea.

23 [REDACTED]: When FCS and components,

1 excuse me, systems, when they are shipped, are
2 they typically shipped as a full-up FCS or are
3 they typically shipped as components of the FCS?
4 Are you aware of whether it's customary to ship a
5 fire control system as a full-up fire control
6 system or in component pieces?

7 MR. DANIELS: It's my understanding they
8 are shipped the way they are denoted here, in
9 pieces.

10 [REDACTED]: So, your understanding is
11 typically when fire control system is shipped, it
12 is shipped by components, not as a full-up system,
13 so you would see several components and part
14 numbers identified?

15 MR. DANIELS: Yes.

16 [REDACTED]: Rather than one full-up FCS
17 unit identified?

18 MR. DANIELS: Right, with one part
19 number, right.

20 [REDACTED]: Have you seen this type of
21 document in the past, in which fire control
22 systems were shipped?

23 MR. DANIELS: Not this particular

1 document, only on the DD-250s, shipping and
2 receiving reports.

3 [REDACTED]: Okay, so this request for
4 shipment documents is one that you're not familiar
5 with? Is that right?

6 MR. DANIELS: Right.

7 [REDACTED]: And, can you just explain
8 for me why you have an understanding that when
9 this document is used to ship fire control
10 systems, they're shipped at control levels, rather
11 than at the full-up fire control system level?

12 MR. DANIELS: Since they are not part of
13 launchers they are not already installed in
14 launchers, I would assume that's the only way they
15 can be shipped.

16 [REDACTED]: As opposed to a full-up
17 fire control system being shipped?

18 MR. DANIELS: As opposed to being
19 installed in the full-up launcher.

20 [REDACTED]: But, if the contractor or
21 anyone else was shipping just a completed fire
22 control system.

23 MR. DANIELS: Yes.

1 ██████████: Would they ship that as a
2 fire control system with a particular part number
3 or would it be shipped by component number?

4 MR. DANIELS: It was my understanding
5 they would be shipped in piece parts, by component
6 number.

7 ██████████: So, well what is that
8 understanding based upon, if you're not familiar
9 with this type of request for shipment documents?

10 MR. DANIELS: Because these parts are
11 located on various parts of the launcher. Once
12 they are on an installed launcher, they are not
13 one big component, they're installed on different
14 parts of the launcher, their cables, their fire
15 control panels.

16 ██████████: So, if I understand you,
17 the fire control system isn't one integrated unit?

18 MR. DANIELS: It's not.

19 ██████████: There are several parts to
20 that system that are integrated together, but get
21 attached to other parts of the launcher?

22 MR. DANIELS: Of the launcher, yes.

23 ██████████: Understood, thank you. The

1 next page in Exhibit 6, has the same style at the
2 top, indicating it is from DCMA May 28th, '03, is
3 that correct?

4 MR. DANIELS: What is that page number,
5 again?

6 [REDACTED]: I'm sorry, it's designated
7 Page 14 of 15.

8 MR. DANIELS: Yes, I'm there.

9 [REDACTED]: I take it that the number
10 at the middle of the page that's in a block that's
11 titled, it appears to be, "B/L Number," is that a
12 bill of lading, is that correct?

13 MR. DANIELS: I'm not, I don't have any
14 idea.

15 [REDACTED]: Can you explain to me, do
16 you know what these various quantities, part
17 numbers and descriptions that are contained on
18 this document represent?

19 MR. DANIELS: They represent piece parts
20 to the fire control system.

21 [REDACTED]: There are various
22 quantities of these parts identified in this
23 document, is that correct?

1 MR. DANIELS: Yes.

2 [REDACTED]: In some cases, there are
3 two parts shipped and in one case, there is one
4 part shipped and one case, there is four parts
5 shipped?

6 MR. DANIELS: Yes.

7 [REDACTED]: Do you know whether all of
8 the components that are identified here would
9 constitute a complete fire control system that
10 would be required under the contract? In other
11 words, do you know how many of the individual
12 parts are identified need to be put together to
13 constitute one complete fire control system?

14 MR. DANIELS: Whether you need 2, or, 1,
15 or 3?

16 [REDACTED]: Yes.

17 MR. DANIELS: I don't know.

18 [REDACTED]: And whether you need all of
19 these parts, or more than the number of parts that
20 are identified, would you know that?

21 MR. DANIELS: No.

22 [REDACTED]: The next document I'm
23 turning to is dated May 28th, '03 from DCMA and

1 it's Page 10 of 15.

2 MR. DANIELS: Yes.

3 [REDACTED]: And, there's a name, typed
4 name and then it appears to be a hand-printed name
5 in the top left- hand corner. The typed name
6 being [REDACTED] and the handwritten name being
7 Robert Long, is that correct?

8 MR. DANIELS: Yes.

9 [REDACTED]: Do you know who these
10 individuals are?

11 MR. DANIELS: I have no idea.

12 [REDACTED]: Did you ever contact anyone
13 at Red River if you received these documents, to
14 get a better understanding of what these documents
15 represented?

16 MR. DANIELS: No, I haven't.

17 [REDACTED]: And, this document is
18 signed by, it appears to be a [REDACTED]
19 [REDACTED], if I'm reading that correctly.
20 Is that --

21 MR. DANIELS: That's what I identified.

22 [REDACTED]: Okay, and it is dated 10-
23 16-02?

1 MR. DANIELS: Yes.

2 [REDACTED]: It has a Shipping Control
3 Number of 02-2656, is that correct?

4 MR. DANIELS: Yes, that's what I
5 identified.

6 [REDACTED]: Do you know why that
7 Shipping Control Number is different than the
8 Shipping Control Number on the first document we
9 read, Page 15 of 15?

10 MR. DANIELS: No.

11 [REDACTED]: Do you know whether each
12 document gets a Shipping Control Number that's
13 different?

14 MR. DANIELS: No, I'm not familiar with
15 the process.

16 [REDACTED]: You indicated that you did
17 not contact either [REDACTED] or [REDACTED] at
18 Red River.

19 MR. DANIELS: No, I did not.

20 [REDACTED]: Did you contact any of the
21 other individuals that are identified in Exhibit
22 6, including the DCMA rep, [REDACTED] or any
23 other individuals whose signatures or names appear

1 on these documents?

2 MR. DANIELS: Other than Ms. [REDACTED]
3 [REDACTED], the ACO, I did not contact any other
4 person than [REDACTED].

5 [REDACTED]: You did contact Ms. [REDACTED]
6 [REDACTED]? Is that right?

7 MR. DANIELS: Yes. This is the origin
8 of these documents.

9 [REDACTED]: What was your discussion
10 with [REDACTED]?

11 MR. DANIELS: My discussion was I was
12 trying to find out the status of these five
13 shipped short fire control panels that were
14 shipped under 0109. And this is the status that
15 she gave me.

16 [REDACTED]: She shipped you these
17 documents, is that correct?

18 MR. DANIELS: Yes, she faxed to me these
19 documents.

20 [REDACTED]: Was your request verbally
21 or in writing?

22 MR. DANIELS: I believe it was an
23 e-mail, or it may have been a phone call. I can

1 check that.

2 [REDACTED]: Thank you. Now, this Page
3 10 of 15 that we're looking at, it was in the
4 middle right hand side, there is a, "Block G.O.
5 Number," and it has a, "3P," either a zero or an,
6 "OS." Do you know what that number represents?

7 MR. DANIELS: If you go back to --

8 [REDACTED]: Maybe it's an 8.

9 MR. DANIELS: Yes, if you go back to
10 Page 14 of 15, same block, and directly to the
11 left of that block, there lies a contract number.
12 "DAAH01-00-C-0002," identified that number as
13 being the HIMARS Production Contract.

14 It is also associated with the number,
15 "3P08."

16 [REDACTED]: And what does that number,
17 "3P08," identify?

18 MR. DANIELS: This is a contractor
19 number, generated number that they use to track
20 costs under a specific contract. Each contract
21 would have a different G.O. number assigned to it.

22 [REDACTED]: Thank you. I note on the
23 document that's Page 10 of 15, that we were last

1 looking at. There's no contract number
2 identified.

3 MR. DANIELS: Yes. And, my assumption
4 is since the G.O. number is the same, 3P08, it's
5 also associated with the Contract Generated
6 Number, Contract Number DAAH01-00-C-0002.

7 [REDACTED]: Are you familiar with the
8 fire control panel of the FCS?

9 MR. DANIELS: Other than just part
10 number and description.

11 [REDACTED]: Okay, turn to the next page
12 that I have marked Exhibit 6, which is Page 11 of
13 15.

14 MR. DANIELS: Yes.

15 [REDACTED]: And, this document has no
16 Shipping Control Number or date that I can see at
17 the bottom right- hand corner.

18 MR. DANIELS: Yes, doesn't appear to be
19 one there.

20 [REDACTED]: The only part number that's
21 identified is described as PSU S/N 170299?

22 MR. DANIELS: Yes.

23 [REDACTED]: Do you know what that part

1 number is?

2 MR. DANIELS: I believe that's a power
3 switching unit.

4 [REDACTED]: Would that be a component
5 of the fire control system, to the best of your
6 knowledge?

7 MR. DANIELS: Yes.

8 [REDACTED]: There's also a Page 12 of
9 15.

10 MR. DANIELS: Yes.

11 [REDACTED]: This one has a date of
12 October 19th. I'm sorry, the date October 19th
13 appears on the document that's marked 12 of 15?

14 MR. DANIELS: Yes.

15 [REDACTED]: Is that correct, 2002?

16 MR. DANIELS: Yes.

17 [REDACTED]: Can you explain or are you
18 aware of the reason why there is a delivery date
19 due on this document 11 of 15, that is October
20 19th, 2002? And yet it does not appear that the
21 other documents that we've discussed in Exhibit 6
22 have a delivery date due marked at all?

23 MR. DANIELS: The 11 of 15 has a

1 delivery date due.

2 [REDACTED]: Right, that's the document
3 that I'm referring to, the previous documents, 10
4 of 15.

5 MR. DANIELS: Oh, I'm looking at 12 of
6 15. It also has a delivery date.

7 [REDACTED]: The 10 of 15, 14 of 15, 15
8 of 15?

9 MR. DANIELS: And 12 of 15 has the
10 delivery.

11 [REDACTED]: But 15 of 15, 14 of 15 and
12 10 of 15, do they have dates?

13 MR. DANIELS: No.

14 [REDACTED]: Are you aware of the reason
15 why there is no date, delivery date on those
16 documents?

17 MR. DANIELS: No, I'm not aware of
18 that.

19 [REDACTED]: On the document that's
20 marked 13 of 15.

21 MR. DANIELS: Yes.

22 [REDACTED]: In the bottom right-hand
23 block, under, "Shipping document Dist/Mail Stop."

1 There's handwritten information, "Panther II," and
2 an 800 number with an extension, is that correct?

3 MR. DANIELS: Yes.

4 [REDACTED]: Did you contact that
5 number?

6 MR. DANIELS: No.

7 [REDACTED]: Do you know what Panther II
8 is?

9 MR. DANIELS: I have no idea.

10 [REDACTED]: The last page of Exhibit 6
11 is an e-mail, is that correct?

12 MR. DANIELS: Yes.

13 [REDACTED]: From a [REDACTED]
14 [REDACTED]

15 MR. DANIELS: Yes.

16 [REDACTED]: Who is [REDACTED] do you
17 know?

18 MR. DANIELS: It says here he is the
19 manager of the M270A1 LRIP Programs at Lockheed
20 Martin.

21 [REDACTED]: Do you know [REDACTED]?

22 MR. DANIELS: Not personally, no.

23 [REDACTED]: Have you dealt with him

1 before?

2 MR. DANIELS: Years ago, maybe ten years
3 ago.

4 [REDACTED]: And this document, this
5 e-mail is dated 17 October, 2002?

6 MR. DANIELS: Yes.

7 [REDACTED]: It's addressed to a Paula,
8 I can't read that name. Do you know the
9 individual's name?

10 MR. DANIELS: It says [REDACTED]

11 [REDACTED]

12 [REDACTED]: Do you know [REDACTED]?

13 MR. DANIELS: From years ago, yes.

14 [REDACTED]: Who is [REDACTED]?

15 MR. DANIELS: I think, from my
16 understanding, she's also Product Assurance or
17 Quality Assurance.

18 MR. DANIELS: A Lockheed Martin employee
19 or a Government employee?

20 MR. DANIELS: Government employee.

21 [REDACTED]: So, would she be a DCMA
22 person?

23 MR. DANIELS: Person, yes.

1 [REDACTED] And, at the very top of
2 this e-mail is the name [REDACTED].

3 MR. DANIELS: Yes.

4 [REDACTED] Do you see that?

5 MR. DANIELS: Yes.

6 [REDACTED] Do you know who [REDACTED]
7 [REDACTED] is?

8 MR. DANIELS: No, I do not.

9 [REDACTED] Do you know how this e-mail
10 came to be attached to this documentation?

11 MR. DANIELS: It was sent as part of the
12 e-mail from [REDACTED].

13 [REDACTED] The e-mail, or the fax?

14 MR. DANIELS: The fax.

15 [REDACTED] At the bottom of this
16 e-mail, it appears to be a message from a [REDACTED]
17 [REDACTED]?

18 MR. DANIELS: Yes.

19 [REDACTED] And it is dated October
20 10th, 2002?

21 MR. DANIELS: Yes.

22 [REDACTED] It is addressed to a [REDACTED]
23 [REDACTED]

1 MR. DANIELS: Yes.

2 [REDACTED] Do you know --

3 MR. DANIELS: He's a Contract Manager at
4 Lockheed Martin.

5 [REDACTED]: Okay, and the subject is,
6 "Change Order to Contract 00-C-0109"?

7 MR. DANIELS: Yes.

8 [REDACTED]: And, what does -- can you
9 explain to me what the Contracting Officer,
10 [REDACTED] is?

11 MR. DANIELS: This appears to be
12 additional work to install the five shipped short
13 fire control systems that was authorized by
14 [REDACTED] letter to actually install
15 them on the five M270A1 Launchers that had been
16 stripped.

17 [REDACTED]: So, this appears to be
18 referring to five sets of fire control systems?

19 MR. DANIELS: Yes.

20 [REDACTED] The contract, is this the
21 Contracting Officer's direction to Lockheed Martin
22 to install these on the five M270A1 launchers?

23 MR. DANIELS: Right. "Borrowed from the

1 LRIP 3 production line and install them on 5
2 M270A1 Launchers."

3 [REDACTED]: Does that have any
4 particular meaning to you?

5 MR. DANIELS: Yes, it has a significant
6 meaning to me.

7 [REDACTED]: What does that mean to you?

8 MR. DANIELS: That this documentation
9 does not match what was actually done. This gives
10 them the authority to use the assets stripped from
11 the DAAH01-00-C-0109 Contract and install them on
12 those launchers at Red River.

13 And, actually, they came from the HIMARS
14 Contract, DAAH01-00-C-0002.

15 [REDACTED]: And, your belief that the
16 parts came from the HIMARS contract is based
17 upon --

18 MR. DANIELS: The documents here.

19 [REDACTED]: The documents that DCMA
20 shipped you that we just looked at?

21 MR. DANIELS: Yes, as part of this fax.

22 [REDACTED]: And, part of the fax that
23 DCMA shipped you included this e-mail?

1 MR. DANIELS: Yes.

2 [REDACTED] Are you stating that your
3 reading of this e-mail, that that e-mail appears
4 to be inconsistent with your understanding of what
5 the shipping, requests for shipping documents?

6 MR. DANIELS: Yes, and herein lies the
7 deception. This is what -- he gave the authority
8 to install the shipped short fire control systems
9 from the 0109 contract.

10 If you follow the documentation, those
11 five each came from HIMARS, the HIMARS contract.

12 [REDACTED] Just so the record's clear,
13 he is [REDACTED]?

14 MR. DANIELS: [REDACTED].

15 [REDACTED] In that e-mail, and the
16 other documents are the faxed documents as part of
17 Exhibit 6 that precede the e-mail.

18 MR. DANIELS: Yes.

19 [REDACTED] And, the deception that you
20 are referring to was deception on the part of
21 whom?

22 MR. DANIELS: It would be on the part of
23 Lockheed Martin. They had only instructions to

1 ship from one contract and they actually shipped
2 them from another. And, what knowledge that the
3 Government had of that, that's the point of the
4 investigation.

5 [REDACTED] You indicated that these
6 documents were sent to you from DCMA?

7 MR. DANIELS: Yes, [REDACTED]

8 [REDACTED] And is DCMA responsible for
9 administering contracts?

10 MR. DANIELS: Yes. And, also
11 responsible for taking directions from the PCO,
12 the Contracting Office.

13 [REDACTED] So, does it appear to you
14 then that DCMA had in its possession documents
15 that are part of Exhibit 6 that we just went
16 through that reflect deception on the part of
17 Lockheed Martin?

18 MR. DANIELS: If they did not take the
19 time to read these, as I did, and look for the
20 actual contract number these items were being
21 shipped from, I just don't know. See, those are
22 the kinds of questions that I am trying to get
23 answered.

1 [REDACTED] [REDACTED]: Did you contact [REDACTED]
2 [REDACTED] when she shipped these to you when you saw
3 the apparent subterfuge that you referred to on
4 the part of Lockheed Martin. Did you discuss that
5 with [REDACTED]?

6 MR. DANIELS: No, because what I wanted
7 to see was a delivery schedule of when we would
8 actually receive the assets from 0109. If you
9 recall the letter that [REDACTED] wrote, gave no
10 delivery schedule for the delivery of the shipped
11 short items. I had no idea at that time that this
12 was not perfectly legit because it could be that
13 the five were coming at a later date at no cost
14 and this was just part of the first transaction.

15 But, since that time, no one has shown
16 me where the five shipped short 0109 have ever
17 been received by the Government, in accordance
18 with this letter that [REDACTED] [REDACTED] wrote.

19 [REDACTED] [REDACTED]: Looking through these
20 requests for shipment documents, can you conclude
21 that these shipping documents reflect the shipment
22 of five full-up FCS?

23 MR. DANIELS: Yes, I did the math and I

1 counted up all the quantities and they all up to
2 five if you do the math on these forms. There
3 will be five of each one of those parts.

4 [REDACTED]: There will be five of each
5 of those parts?

6 MR. DANIELS: Yes.

7 [REDACTED]: Are you familiar with how
8 many parts make up a fire control system?

9 MR. DANIELS: No.

10 [REDACTED]: So, if you aren't familiar
11 with how many parts make up a fire control system,
12 how can you be sure that these documents reflect
13 the shipment of five full-up fire control systems?

14 MR. DANIELS: I'm not, those are the
15 questions I am asking in my complaints.

16 [REDACTED]: The Exhibit 6 documents
17 indicate that they were a total of fifteen
18 documents faxed, and the Fax Header Sheet
19 indicates fifteen, including the header sheet?
20 Are you aware of what those other documents,
21 remaining documents are and where they are
22 located?

23 MR. DANIELS: I'm pretty sure those were

1 the documents I talked to you about that were the
2 back-up to Colleen Rodriguez' letter and the
3 letter, itself. The 15 October 2000 letter from
4 [REDACTED].

5 [REDACTED]: And, do we have those back-
6 up documents as far as you are aware?

7 MR. DANIELS: You have at least one of
8 them.

9 [REDACTED]: What one would that be?

10 MR. DANIELS: The one for the expedited
11 delivery from the Field Commander, remember? What
12 tab was that?

13 [REDACTED]: Let's look through it.

14 MR. DANIELS: I've got a copy of it real
15 handy here.

16 [REDACTED]: So, it's not the 15 October
17 2002 letter from [REDACTED] that you are
18 referring to?

19 MR. DANIELS: That would be part of it,
20 and in essence, also the back up to that letter.

21 [REDACTED]: The back up to the 15
22 October 2002 letter?

23 MR. DANIELS: Yes. Yes.

1 ██████████: The letter, itself, 15
2 October 2002 letter does not indicate that there
3 were any enclosures to this letter. So, when you
4 say back-up, is it --

5 MR. DANIELS: Supporting documents.

6 ██████████: Supporting documentation.

7 And, do you know where that supporting
8 documentation came from?

9 MR. DANIELS: It would have come from
10 the one page letter from the Field Commander and
11 the other would have come from the Project
12 Manager's office, requesting us to do that.

13 ██████████: To do --

14 MR. DANIELS: To do the shipped short
15 and expedite.

16 ██████████: The fax that DCMA sent to
17 you that's part of Exhibit 6?

18 MR. DANIELS: Yes.

19 ██████████: Did they fax you all
20 fifteen pages?

21 MR. DANIELS: I'm sure they did.

22 ██████████: Do you recall what the
23 other fifteen pages that are not attached to and

1 part of Exhibit 6 included?

2 MR. DANIELS: It would probably have
3 been [REDACTED] letter and the back-up to that, and
4 supporting documents to that letter.

5 [REDACTED]: So that has -- let me refer
6 to Exhibit 7. This does appear to be a
7 continuation of this DCMA fax.

8 MR. DANIELS: Okay.

9 [REDACTED]: It has a header on the top
10 page, which is [REDACTED] 15 October 2002
11 letter. It is dated May 28th, 2003.

12 MR. DANIELS: Yes.

13 [REDACTED]: And, it indicates, Exhibit
14 7 that I am reading from, that [REDACTED]
15 letter is marked 3 of 15 and then there are two
16 more pages, marked 4 of 15 and the second page is
17 also marked 4 of 15. So, it appears to be a
18 duplicate of the second page.

19 And this was the exhibit that you
20 provided us?

21 MR. DANIELS: Yes. I also want to note
22 that if you look on the attachment to that --
23 these numbers should match what's on here, I do

1 believe, serial numbers.

2 [REDACTED] [REDACTED]: So, the serial numbers that
3 are attached as Part of Exhibit 7 to [REDACTED]
4 [REDACTED] 15 October 15 2002 letter, you believe
5 are the same serial numbers --

6 MR. DANIELS: Appearing on the shipping
7 page.

8 [REDACTED] [REDACTED]: That appear on the shipping
9 documentation that we just discussed that are a
10 part of Exhibit 6. Do the part numbers match as
11 well?

12 MR. DANIELS: I would assume so, I
13 didn't check that closely.

14 [REDACTED] [REDACTED]: Turning to Exhibit 7 and
15 the attachment. And, as I indicated just a few
16 moments ago, Page 2 and 3 that are attached to
17 Exhibit 7 appear to be the same document.

18 MR. DANIELS: Yes.

19 [REDACTED] [REDACTED]: So, I'll just refer to the
20 first page, which is marked 4 of 15 in Exhibit 7.
21 Can you explain to me what those part numbers and
22 serial numbers and other nomenclature contained on
23 that page represent?

1 MR. DANIELS: If I remember correctly,
2 that was a continuation of the e-mail from Don
3 Shipp dated October 17th, 2000 schedule, part of
4 the fax. And that page was the second page of
5 that e-mail, if I remember correctly.

6 [REDACTED]: Well, what you are showing
7 me is a copy of, looks like a fax transmission
8 that indicates it is Page 2 of a fax transmission
9 from DCMA which appears to be a copy of the e-mail
10 that we discussed with [REDACTED] name at the
11 top from a [REDACTED] at Lockheed Martin,
12 correct?

13 MR. DANIELS: Yes. Yes. And, I believe
14 that is a continuation of this, if I remember
15 correctly.

16 [REDACTED]: That being what?

17 MR. DANIELS: A continuation of the fax,
18 Page 2.

19 [REDACTED]: Now, when you say, "that,"
20 what are you referring to?

21 MR. DANIELS: Of the --

22 [REDACTED]: That being?

23 MR. DANIELS: Exhibit 6, Page 2.