

**Henry, Simon**

1 UNITED STATES SECURITIES AND EXCHANGE COMMISSION

2

3 In the Matter of: )

4 ) File No. FW-02742-A

5 ROYAL DUTCH SHELL GROUP )

6 WITNESS: Simon Henry

7 PAGES: 1 through 200

8 PLACE: Offices of Debevoise & Plimpton LLP

9 555 13th Street, N.W.

10 Washington, D.C. 20004

11 DATE: Tuesday, October 19, 2004

12

13 The above-entitled matter came on for hearing, pursuant  
14 to notice, at 9:50 a.m.

15

16

17

18

19

20

21

22

23

24 Diversified Reporting Services, Inc.

25

(202) 467-9200

Henry, Simon

1 P R O C E E D I N G S

2 MR. CRAINE: We're back on the record at ten until  
3 10:00 on October 20th.

4 And again, in front of you, today we've got a copy  
5 of the formal order and the Form 1662. I'll remind you that  
6 you're still under oath today and you're welcome to look at  
7 those if you have any question.

8 THE WITNESS: Thank you.  
9 Whereupon,

10 SIMON HENRY

11 having been previously duly sworn, was recalled as a witness  
12 herein and was examined and testified further as follows:

13 EXAMINATION

14 BY MR. CRAINE:

15 Q I'm handing you what's been marked as Exhibit 345.  
16 Do you recall sending and receiving this string of emails?

17 (SEC Exhibit No. 345 was marked for  
18 identification.)

19 A Just give me a moment to consider.

20 Q Oh, sure. We're going to be walking through a lot  
21 of exhibits today, so to the extent you need to read through  
22 anything at any time, just let me know.

23 A Yes, I believe I recall the discussion.

24 Q And who are the individuals involved in the thread  
25 other than yourself? And maybe it would be easier just to

Henry Simon

1 look at the top email.

2 A The top. Lew Watts was working as an executive in  
3 the gasoline power business, responsible for, I believe, the  
4 Africa region and maybe North America. And he was the senior  
5 executive linked with the investment decision on Trains 4 and  
6 5 to Nigeria LNG. But he didn't work in the EP business. It  
7 was part of a separate business but clearly there was an  
8 operational link between the two activities. Phil Davis was,  
9 I believe, a technical resource within the EP Africa group,  
10 would have reported to Brian Ward as the executive  
11 responsible for BP businesses in Africa. And Michael Harrop  
12 was my head of IR in the UK and Ireland at the time.

13 Q When?

14 A This is March 2002.

15 Q And then Harrop is spelled with two r's and one p I  
16 think. I'd like to, well, first of all, what was the issue  
17 that was being discussed in Exhibit 345?

18 A The issue was an imminent decision and announcement  
19 of final investment decision on the LNG trains in Nigeria.  
20 And going back to yesterday's chronology, this was early 2002  
21 at the time when reserves was becoming quite an issue with  
22 the investment community. And so whether it was myself or  
23 Michael Harrop who originally raised the question of if we  
24 take final decision off the LNG plant, what would be the  
25 impact on reserves bookings if any.

1 Q And going along with the point you just made, it  
2 looks like in your email here which is in the middle of the  
3 first page, you note with I think respect to reserve  
4 replacement ratio, 'This is a very sensitive point in the  
5 market at the moment and it would be sad to score an end goal  
6 on such a positive announcement for the group.' Is that  
7 right?

8 A Yes.

9 Q And at this point in time, had you conveyed to Ms.  
10 Boynton and Mr. Watts that this was a very sensitive point in  
11 the market at the moment?

12 A The general issue, yes. The specific issue of  
13 Nigeria LNG, I couldn't recall whether I discussed it with  
14 Phil and Judy directly.

15 Q And when you talk about the general issue, that's  
16 the reserve replacement ratio?

17 A That investors themselves at that time had a  
18 concern about reserve replacement ratio. That was the case  
19 from the end of 2001 and in fact whether it would be full  
20 year results and the fact that we reported a low volume at  
21 that time.

22 Q And just so we're clear, was that something that  
23 you conveyed to both Ms. Boynton and Mr. Watts?

24 A I conveyed it on the market like they did.

25 Q Looking at your email more specifically that we're

1 just addressing before, what are you trying to convey to Mr.  
2 Watts and Mr. Davis here?

3 A This is to Lew Watts not Philip Watts.

4 Q Right. Thank you for clarifying that, that's my  
5 fault.

6 A I was confirming with Lew and Phil Davis what we  
7 had understood and generally what we were saying to investors  
8 about when we book reserves as we have been previously  
9 advised through EP. And this was a non-standard announcement  
10 given that it was the LNG plant that was taking an investment  
11 decision and wanted to understand if the same rules applied.

12 Q And you just said we, and in the email here you  
13 note, 'We have always discussed with investors that for gas  
14 in particular, the point at which they become bookable," and  
15 I guess that's proved reserves you're talking about, is that  
16 right? Is FID?

17 A This is almost in hindsight, yes. And to be  
18 honest, at the time, I'm not sure I would have been able to  
19 give you a good definition of the difference between proved-  
20 probable or reserves generally but reserves become bookable.  
21 I would imply from what I've said that which would be  
22 externally reported and therefore proved.

23 Q And when we're talking about reserve replacement  
24 ratio, we're talking about proved as opposed to the others,  
25 correct?

24572  
Henry, Simon

1 A Yes, that's correct.

2 BY MR. PEAVLER:

3 Q You mentioned that, as you understood it from  
4 someone anyhow from EP that this was how reserves are booked.  
5 Who in EP specifically had given you such an understanding?

6 A This would have been in the version of the IR  
7 briefing notes at the time. Otherwise, I'm not sure I could  
8 have been so specific, which would have derived from the EP  
9 organization within, as discussed yesterday, most likely the  
10 performance and reporting group which at the time reported to  
11 Dominique Gardy. And they, I think this was before Rhea  
12 Hamilton was actually involved directly. If Rhea actually in  
13 terms of timing was involved, Rhea would have been the source  
14 but I see she's not copied on the email so probably it was  
15 not Rhea. And it would have come to us most likely through  
16 the group of Alf Thorkildson and the original source would  
17 mostly have been John Pay or whoever was hired as the  
18 reserves coordinator at the time.

19 BY MR. CRAINE:

20 Q And these IR points we're discussing, these were  
21 reviewed and approved by Mr. van de Vijver as well, correct?

22 A I can't say, but he probably knew they were there.  
23 But they would not ordinarily be high on his priorities for  
24 reviewing and approving.

25 Q Well, if you're preparing him for these one-on-

Henry, Simon

1 ones, you're going through the IR points from the EP group,  
2 correct?

3 A That's correct but I did mention yesterday Mr. van  
4 de Vijver was not particularly assiduous in reviewing before  
5 meetings let alone in approving them in the first place. So,  
6 I just can't say that he approved them.

7 BY MR. PEAVLER:

8 Q Was he given the opportunity to approve them?

9 A I would imagine so within EP, yes.

10 Q Well, let me ask you this, if you prepared and you  
11 had prepared these IR briefing notes, would you send them out  
12 and make them available so that people would be able to  
13 answer questions from them about EP without the head of EP at  
14 least having the opportunity to review them?

15 A My assumption would always be that the head of EP  
16 had had an opportunity. I just cannot say I know he did so.  
17 And his normal mode of operanda suggests that he probably  
18 wouldn't.

19 BY MR. CRAINE:

20 Q So, you're relying on your perception that Mr. van  
21 de Vijver had a lack of diligence with respect to IR  
22 activities to make this statement, is that correct? That's  
23 what I'm understanding upon proceeding. Please explain it  
24 for me.

25 MR. FERRARA: That's not a fair question.

24574  
Henry, Simon

1           THE WITNESS: My direct experience of Walter was  
2           that he did not read detailed information before he needed to  
3           use it. That's my direct experience. The information that  
4           we're talking about undoubtedly came from the EP business,  
5           there's nowhere else it could have come from. And it would  
6           have come through the part of the business that reported to  
7           Dominique Gardy. I would imagine Dominique had played, had  
8           given some kind of approval. And it was typical for Walter  
9           to delegate that level of approval into the organization.

10           BY MR. CRAINE:

11           Q     And my question is if he didn't read and he didn't  
12           prep the IR materials the way that you would like, didn't  
13           that lead to problems in meetings with investors and  
14           analysts?

15           A     Replay yesterday's discussion about confusion, yes.  
16           And in terms of facts, they were not the common ground in  
17           discussions we had. So, I do believe he left the investors  
18           confused because that's what they told me. But that is not  
19           the same as saying he gave misleading or incomplete  
20           information.

21           Q     Which anticipates my next question, were there  
22           instances where because he didn't review or prepare the way  
23           you would have liked, that he gave information that was  
24           different than others at Shell during these meetings with  
25           investors and analysts?



Henry, Simon

1           A     I can't think of specific instances where he did.  
2           And I can think of several instances where I wish he'd given  
3           more specific information based on what, the details that had  
4           been provided in briefing.

5           Q     You note in here that when you talk about the  
6           information that has been given to investors with respect to  
7           gas at the point of which reserves become bookable is FID,  
8           who is the we that we're talking about? Does that include  
9           Mr. Watts, Ms. Boynton and Mr. van de Vijver?

10          A     It's the general we for the Shell group which would  
11          have been my team plus the briefing notes that we would have  
12          given. If I wind back the clock to 2002, there was very  
13          little discussion about this level of specific at the time.  
14          The specific came later on in the period in the review.

15          Q     But in 2002 as you went in to these one-on-ones and  
16          you went into these meetings, is this statement, We book gas  
17          reserves at FID, was this statement something that was  
18          conveyed to investors by Mr. Watts, Ms. Boynton and Mr. van  
19          de Vijver?

20          A     I don't recall specific instances but if it's in  
21          this email, chances are it was based on the briefing notes.  
22          What I can say is, I'm repeating yesterday, before February  
23          2002, I don't recall any questions on reserves per se. From  
24          2002, the level of interest and knowledge at both sides of  
25          the table increased. This is early 2002. And therefore, the

1 quality of the discussion and the specificity of the  
2 discussion would be much lower than it would be say a year  
3 later.

4 Q And what I'm trying to do is expand this email to  
5 the entire year of 2002, that statement, you know, We booked  
6 reserves for gas at FID. During the year of 2002 and as it  
7 gained more prominence, was the statement made to the market  
8 by Mr. Watts, Ms. Boynton and Mr. van de Vijver?

9 A It's a difficult one to recall on specifics. I  
10 think the various notes that we reviewed yesterday did not  
11 refer to that specific statement.

12 Q I think they did. There were instances that it  
13 did.

14 A Instances that talked about FID, but that's the  
15 best I could say on it. It's two years ago. We had a couple  
16 hundred of these meetings at the time in the year and I just  
17 could not say I remember a specific instance where this  
18 specific comment was used.

19 Q So, when you're talking about this, 'We have always  
20 discussed with investors,' is that we just the IR department?  
21 Who is that we?

22 A Certainly the IR department but the we would have  
23 meant anybody talking to investors which was basically  
24 limited to IR and the managing directors, with occasionally  
25 low level executives but at that point in time, that was not

Henry, Simon

1 common.

2 Q And that group would include Mr. Watts, Mr. van de  
3 Vijver and Ms. Boynton?

4 A Correct, it would.

5 BY MR. PEAVLER:

6 Q When you say "always discussed", is that going back  
7 to the time you started as head of IR?

8 A I think in the context of was reserves something  
9 that we discussed at all. I don't know what we would have  
10 said during 2001 because I really don't discuss the issue, I  
11 don't remember the issue being discussed. I talked about  
12 production growth and not reserves. The always in this case  
13 would have gone back to the early February Q-4 year end  
14 statement about our reserve replacement ratio for 2001.

15 BY MR. CRAINE:

16 Q After receiving this email and being involved in  
17 this thread in Exhibit 345, did you go to EP and ask when we  
18 book or follow up at all?

19 A Probably not because Lew is confirming pretty much,  
20 he's basically answering the question, he's confirming that  
21 you are right, reserves become bookable at FID, but because  
22 there are different investment decisions for the other three  
23 and the gas liquefaction, then the timing at which reserves  
24 will be booked could differ, without giving any specifics.

25 Q Looking again at that, at your statement in the

Henry, Simon

1 middle thread, 'This is a very sensitive point in the market  
2 at the moment," and then going on to, 'You know, it would be  
3 sad to score an end goal around such a positive announcement  
4 for the group." What did you mean by that?

5 A The two LNG trains themselves were a very positive  
6 announcement because they were effectively supplying gas to  
7 Southern Europe and the United States, an area where it was  
8 known that we were under-represented in our abilities to  
9 supply gas to very attractive markets. So, in business  
10 sense, a strategic sense, it's a great announcement. The  
11 home goal would be, if we were saying here is a good  
12 investment but it isn't going to impact at all positively one  
13 of the key metrics the investors look at because investors  
14 having seen the announcement would say good news, what  
15 reserves would you book?

16 Q I'm handing you what's been marked as Exhibit 213.  
17 I'm going to be starting on the second to last page to that.  
18 And the email on the middle of the page, the one from  
19 van der to Pay?

20 A Right.

21 Q That copies you, do you see that?

22 A Yes, I do.

23 Q And that's, 'One of the more knowledgeable US  
24 analysts keeps pestering my colleague in New York with  
25 questions on the booking of gas reserves in relation to FID