



1 SALT LAKE CITY, UTAH, FRIDAY, APRIL 20, 2018

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3 THE COURT: Good morning. We're continuing in
4 United States vs. RaPower.

08:30:55 5 Any preliminaries we need to take care of from your
6 standpoint? I've got a couple.

7 MS. HEALY-GALLAGHER: I do have a couple.

8 THE COURT: Go ahead.

9 MS. HEALY-GALLAGHER: Thank you. First, Your
08:31:05 10 Honor, we wanted to follow up on the questions you had with
11 respect to exhibits that are similar to Plaintiff's
12 Exhibit 158.

13 THE COURT: Great. That's the top of my list.

14 MS. HEALY-GALLAGHER: Okay. We used -- so
08:31:23 15 Plaintiff's Exhibit 158 and its contents are not identical in
16 other exhibits that we've used, but certain aspects of it are
17 incorporated into other exhibits. So, for example, we used
18 Plaintiff's Exhibit 40 in the deposition of Frank Lunn, and
19 that was in his deposition designations.

08:31:42 20 THE COURT: Okay.

21 MS. HEALY-GALLAGHER: So that's where you may have
22 seen that. That is --

23 THE COURT: Who's the father of Andrea who is
24 listed in that? Is it Lunn?

08:31:53 25 MS. HEALY-GALLAGHER: Mr. Shepard.

1 Mr. Jameson?

2 MS. HEALY-GALLAGHER: That's all I have.

3 THE COURT: Okay.

08:52:37

4 MR. SNUFFER: I do want to inquire about what the
5 government anticipates the schedule being when we begin our
6 case or when they are going to rest their case, if they have
7 an idea of when that's going to happen. Monday, Tuesday,
8 Wednesday? When do they think they'll rest?

08:52:57

9 THE COURT: Let's talk about that at the end of the
10 day since I've always seemed to be surprised by the rate of
11 progress. I think we're going to be better suited at the end
12 of the day, or we could meet tomorrow. Let's do it at the end
13 of the day. Okay. Remind us of that, Mr. Snuffer.

14 MR. SNUFFER: Okay.

08:53:15

15 THE COURT: Go ahead and call your witness, then.

16 MS. HINES: Your Honor, the United States calls
17 Richard Jameson to the stand.

18 THE COURT: Thank you.

08:53:37

19 THE CLERK: If you'll stop by the podium, please.
20 Raise your right hand.

21 RICHARD JAMESON,
22 called as a witness at the request of Plaintiff,
23 having been first duly sworn, was examined
24 and testified as follows:

08:53:42

25 THE WITNESS: Yes.

1 Q. And you understood that the legal and
2 professional fees reported here were for payments made to
3 Mark and Matthew Shepard, correct?

4 A. Um, I believe so. I would have to go back and
5 look at my notes to be sure.

6 Q. Did part of the legal and professional fees also
7 include amounts paid to Mr. Shepard that he reported on his
8 Shepard Energy Schedule C?

9 A. That sounds familiar with the conversion from the
10 Schedule C to the S-Corporation there was some lag time in
11 getting everything carried over correctly. Though it is my
12 understanding that yes, that might have been transferred
13 over to the Schedule C.

14 Q. And you prepared a tax return Form 1120S for
15 Shepard Global for tax year 2015; correct?

16 A. Yes, ma'am.

17 Q. You also prepared one for 2016, correct?

18 A. Yes, ma'am.

19 Q. For 2015, Shepard Global reported \$127,308.00 in
20 gross receipts, correct?

21 A. I don't have a copy of the return in front of me.

22 Q. Would looking at a copy of the return help
23 refresh your recollection?

24 A. Yes, ma'am.

25 Q. Okay. Please turn to Plaintiff's Exhibit 779.

1 A. Yes, ma'am.

2 Q. Okay. So for 2015 Shepard Global reported
3 127,000 -- I'm sorry, \$127,308.00 in gross receipts,
4 correct?

5 A. Yes, ma'am.

6 Q. And it's your understanding that these gross
7 receipts came from the commissions that Mr. Shepard received
8 for referring people to buy solar lenses from RaPower-3,
9 correct?

10 A. I would assume so. They came on a 1099 under
11 Box 7.

12 Q. And that 1099 was from RaPower-3?

13 A. Yes, ma'am.

14 Q. You also prepared a Form 1120S, S-Corporation tax
15 return for Shepard Global Incorporated for 2016, correct?

16 A. Again, I don't have it in front of me.

17 Q. But you did prepare one, right?

18 A. It sounds familiar.

19 Q. And Shepard Global Incorporated for 2016 reported
20 1,000 -- \$169,332.00 of gross receipts; is that correct?

21 A. I don't have the tax return in front of me. I
22 can't say if it is correct or not correct.

23 Q. Would looking at a copy of the tax return help
24 refresh your recollection?

25 A. Yes, ma'am.

1 Q. Please turn to what has been marked as
2 Plaintiff's Exhibit 867.

3 A. Okay.

4 Q. Could we switch to the ELMO, please. Have you
5 had a moment to review Plaintiff's Exhibit 867?

6 MR. SNUFFER: I was going to wait for a question but
7 let me just point out 867 has no Bates number, hasn't been
8 produced, wasn't identified as an exhibit to be used at the
9 trial and we're going to object to it.

10 THE COURT: Sure, if it is offered. I'm going to
11 permit it though to be used for refreshing recollection.

12 MR. SNUFFER: Yeah.

13 MS. HINES: Thank you, Your Honor.

14 Q. (By Ms. Hines) Mr. Jameson, did looking at
15 Plaintiff's Exhibit 867 refresh your recollection that
16 Shepard Global Incorporated reported gross receipts of
17 \$169,332.00 for tax year 2016?

18 A. According to the return I'm looking at but it
19 doesn't have my signature on it so I'm skeptical as to where
20 it came from.

21 Q. I can point your direction to look at Page 2. Do
22 you see your name on there?

23 A. I see my name, I don't see my signature.

24 Q. Then on Page 1 in the signature you see the
25 asterisk that indicates a pin?

1 A. What are you having me look at?

2 Q. Page 1. The pin, the asterisks?

3 A. I'm not sure what you're trying to have me look
4 at.

5 Q. The asterisks?

6 A. Down where it says signature?

7 Q. Uh-huh (affirmative)?

8 A. Okay, yeah, there is asterisks.

9 Q. Mr. Jameson, for 2016 would you have filed the
10 return electronically?

11 A. If I prepared the return, yes, ma'am, I would
12 have.

13 Q. And you don't specifically sign electronic
14 returns, correct?

15 A. Yes, ma'am I have to sign the 8879.

16 MR. SNUFFER: So I guess his memory isn't refreshed.

17 THE COURT: Sounds like it.

18 Q. (By Ms. Hines) Mr. Jameson, are you familiar
19 with electronic prints of IRS tax returns?

20 A. Yes, ma'am.

21 Q. Are you familiar with the web address that
22 typically attaches to an IRS tax return that is
23 electronically printed?

24 A. Um, I am not completely familiar with it I don't
25 memorize that one.

1 Q. Looking at the bottom, the
2 [HTTPS://eup.eps.irs.gov](https://eup.eps.irs.gov)?

3 A. Yes, ma'am.

4 Q. Would that web address indicate to you that this
5 was printed from the IRS electronic filing system?

6 A. It would indicate that it came from the Internal
7 Revenue Service yes, ma'am.

8 Q. Mr. Jameson, with that understanding, and again
9 taking a look at Plaintiff's Exhibit 867, does it refresh
10 your recollection on whether Shepard Global reported
11 \$169,332.00 in gross receipts for tax year 2016?

12 A. It would be obvious that they reported that
13 because this is an electronically filed return.

14 Q. Okay. So just to be clear, Shepard Global
15 Incorporated reported gross receipts of \$169,332.00 for tax
16 year 2016?

17 A. Yes, ma'am, on the tax return they did.

18 Q. And it is your understanding that the gross
19 receipts reported by Shepard Global Incorporated for 2016
20 relate to the commissions Mr. Shepard received for referring
21 people to purchase lenses from RaPower-3, correct?

22 A. Um, I would state that they came on a 1099 in
23 Box 7.

24 Q. And that 1099 was from RaPower-3?

25 A. Yes, ma'am.

1 Q. So those are monies that Mr. Shepard received
2 from RaPower-3; correct?

3 A. Yes, ma'am.

4 Q. You also prepared a tax return for Mr. and
5 Mrs. Shepard for their individual income taxes for 2016; is
6 that correct?

7 A. That sounds familiar, yes, ma'am.

8 Q. And Mr. and Mrs. Shepard reported a Schedule C
9 relating to equipment rental services, correct?

10 A. I would have to look at the tax return. I am
11 assuming they did, yes.

12 Q. So looking at a copy of the tax return would
13 refresh your recollection?

14 A. It would help, yes, ma'am.

15 Q. Please turn to what has been marked as
16 Plaintiff's Exhibit 866.

17 THE COURT: Should we flip off the ELMO now and go to
18 something else. You have got it there? Okay.

19 MR. SNUFFER: I think this may be another exhibit that
20 hasn't got a Bates number and hasn't been produced nor
21 identified.

22 THE COURT: Probably correct. And for the record, I'm
23 permitting them right now to be used to refresh recollection
24 but I haven't permitted anything else, yet.

25 THE WITNESS: Yes, ma'am.