

Companies in Utah solar fraud case filing for bankruptcy

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SALT LAKE CITY — A massive Utah solar fraud case in federal court took a sudden twist Monday when two companies central in the case filed for bankruptcy or announced their intent to file.

The bankruptcy claim by RaPower3 is meant to delay, or even possibly derail, the U.S. Department of Justice's motion to appoint a receiver in the case to take over those companies and also to freeze millions in assets. International Automated Systems also announced its intent to file, according to court records, but a full document was not available.

That money, the federal government argued, represents unjust enrichment on the part of the companies and the men in charge of them, Neldon Johnson and Gregory Shepard.

Those two are leaders of a scheme the federal government alleges bilked the U.S. Treasury out of millions of dollars in ineligible tax credits awarded for solar energy.

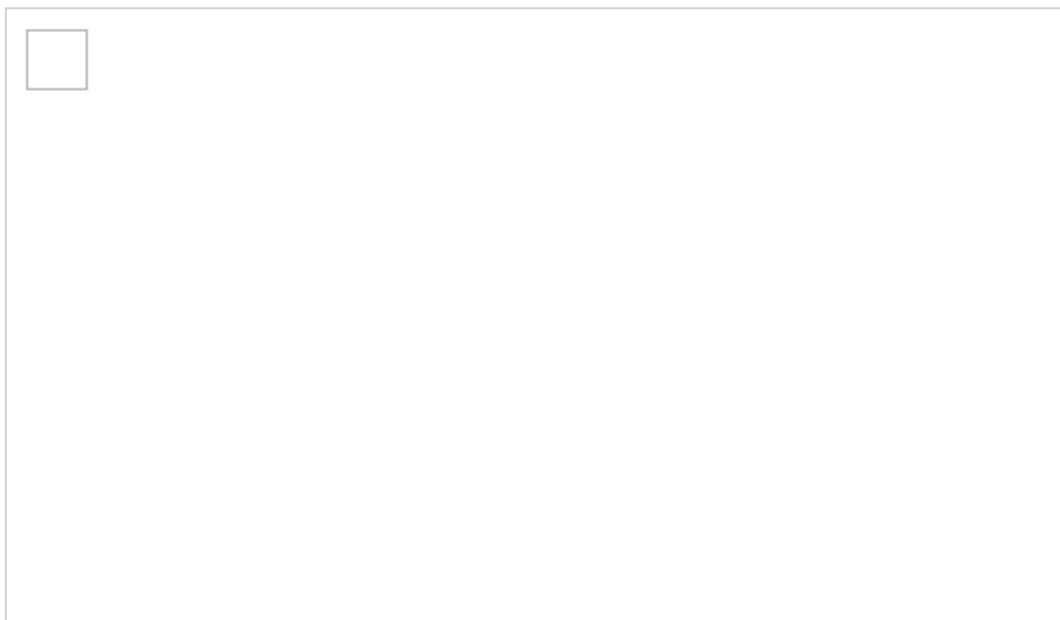
As the Deseret News was first to report in 2013, Johnson — head of International Automated Systems — has been claiming for more than a decade to be behind the development of revolutionary solar technology that, at the time, had yet to be linked to any significant energy production.

Last week, U.S. District Court for Utah Judge David Nuffer granted a narrow injunction in the case, ordering the companies to remove from their websites any information purporting that their solar lenses are eligible for tax credits.

In his order, Nuffer noted the scheme "is a hoax funded by the American taxpayer by defendants' abusive advocacy of the tax laws. This echoes the serious affinity fraud problem we have here in this state."

But defense attorney Denver C. Snuffer Jr. said the case was botched in multiple ways during the trial, including denial of a trial by jury and admission of three witnesses and certain exhibits that he says should not have been allowed to come in as evidence.

"All our issues we want the appeal court to be able to address," Snuffer said, noting the bankruptcy documents will preserve that right of appeal.



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The bankruptcy filing complicates the government's requests before the court.

"It will delay it but ultimately not prevent it," Snuffer said. "The receiver issue would be delayed and moved over to the bankruptcy court for resolution or for the debtor to remain in possession of the estate."

Since at least 2010, the defendants in the case promoted the sale of non-electricity producing solar lenses to clients to "zero out" their tax liability by claiming a depreciation deduction and solar energy tax credit with the IRS, the government asserted.

In the tax years of 2013-2016, the government said the defendants' customers claimed at least \$14 million in improper tax refunds as a result of the tax scheme.

The government also asserts RaPower3, in which Shepard is chief director of operations, earned at least \$25.8 million between 2009 and 2016 as a result of the scheme, and Johnson's International Automated Systems received at least \$5.4 million from 2008-2016 from its role.

Various other companies also earned money as a result of the scheme, according to court documents.

The Department of Justice's Tax Division wants the court to freeze all assets associated in the case because the defendants have been "dissipating assets" since they learned of the criminal investigation by the IRS.

Johnson, it said, assigned six patent rights to a company in Nevis and St. Kitts in the Caribbean and has ownership in multiple foreign entities.

Shepard, it added, transferred his property right in his personal residence to a trust in the name of his wife.

The government believes the proceeds from the scheme to be at least \$32.7 million and asserts if Johnson and Shepard retain control of the companies, any compensation that may be awarded will be meaningless.

"Given defendants' reluctance to cooperate in discovery regarding assets and ownership structure, a receiver is necessary to enforce the internal revenue laws and determine and corral the assets the defendants have, regardless of their location," the government wrote.

The government wants anyone associated with the companies, including attorneys and officers, dismissed and their powers suspended.

"The receiver power can virtually be unlimited," Snuffer said. "We don't know if the judge would seriously consider doing that, but what we have is the threat."

The government did say Johnson and Shepard would be entitled to monthly living expenses based on IRS national standards of \$3,160 and \$3,619, respectively, if a receiver is appointed in the case.