



U.S. Department of Justice

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June 2, 2016

**VIA EMAIL**

Justin D. Heideman (jheideman@heidlaw.com)  
HEIDEMAN & ASSOCIATES  
2696 North University Avenue, Suite 180  
Provo, Utah 84604

Re: *United States v. RaPower3, et al.*  
Case No. 2:15-cv-00828-DN-BCW

Dear Mr. Heideman:

On May 27, 2016, we received an email from your office with interrogatory responses purportedly from LTB, IAS, and Neldon Johnson. The responses received are inadequate and incomplete. We are not attempting to catalog every deficiency in the responses, but are including a list of some specific issues we have with the responses so that we can confer regarding these issues and/or you can begin to prepare amended and/or supplemental responses to the interrogatories.

**1. None of the responses were signed as required.** See Fed. R. Civ. P. 33. We expect to receive signed versions of these responses by no later than **June 6, 2016**.

**2. RaPower-3, LLC did not provide any interrogatory responses.**

**3. The responses from LTB, IAS, and Neldon Johnson are incomplete.** For example, IAS in its interrogatory responses failed to disclose its own website even though that is responsive to the interrogatories posed. The response from Neldon Johnson to Interrogatory No. 15 requesting bank and financial institution account information is incomplete. This response fails to comply with Fed. R. Civ. P. 33(d). *See also, Kelatron v. Marlyn Nutraceuticals*, 2013 WL 4498722 (D. Utah 2013). Further, even though your clients purported to raise objections to the interrogatories, such objections were not stated with specificity as required and any objection not timely raised has now been waived. *See Fed. R. Civ. P. 33(b)(4); Kelatron, supra*. Accordingly, we expect full and complete responses to the interrogatories posed.

**4. The responses appear to be in draft form.** In the responses from LTB and IAS, the response does not include the actual directors' names as requested and instead states "[INSERT

**Exhibit**  
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DIRECTOR NAME].” Additionally, many of the interrogatory responses do not appear to relate to the specific interrogatory to which they are purportedly responding; instead, the responses reference the wrong interrogatory number or language from other interrogatories. This suggests that responses to each interrogatory were simply copied from the previous interrogatory.

**5. Your clients have had almost 60 days to prepare interrogatory responses.** We served the interrogatories on April 8, 2016 on former counsel for your clients. It was our understanding that your clients have been working on gathering the information and preparing responses. The responses were originally due on May 11, 2016. We agreed to extend the due date to May 18, 2016, the date on which you filed your Notice of Substitution of Counsel. In light of you taking over the case on May 18, 2016, we agreed to extend the response date for the interrogatories until May 27, 2016 and the response date for the production of documents until June 17, 2016. At this time, your clients have had almost 60 days to answer our interrogatories. Yet, in several responses, your clients indicate that they are still attempting to gather the information requested. For example, LTB asserts this in response to Interrogatory No. 15 which requested LTB identify each and every bank or financial institution in which it has an account, or signatory authority. This response is inadequate in light of the timeframe your clients have had to prepare responses to our interrogatories.

In light of the deficiencies discussed herein and the time your clients have had to prepare these responses, we expect to receive amended or supplemental responses to these interrogatories by no later than **June 10, 2016**. These amended or supplemental responses should be signed under penalty of perjury. If we do not receive answers to our interrogatories that comply with Fed. R. Civ. P. 33, we intend to file the appropriate motion with the Court.

If you would like to discuss the deficiencies in more detail, we are available to confer about the specifics by conference call in advance of June 10, 2016.

Lastly, we note that your clients have asserted that some responsive information is “of a proprietary nature and will be disclosed” at a later time. We previously indicated that documents or information that your clients believe is “confidential” and subject to an appropriate protective order may be withheld until the protective order is resolved. However, we would like to point out, that at this time, the United States is not agreeing to the characterization asserted in the interrogatory responses nor is it waiving its right to challenge the designation of any responsive information that will be produced later. Furthermore, we expect that all withheld information will be readily produced upon resolution of the protective order (without any need for additional time).

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Please call us to discuss this matter further.

Sincerely yours,

/s/

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