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Attorney for RAPower-3, LLC, International Automated Systems, Inc., LTB1, and Neldon Johnson

**IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RAPOWER-3, LLC, INTERNATIONAL
AUTOMATED SYSTEMS, INC., LTB1, LLC,
R. GREGORY SHEPARD, NELDON
JOHNSON, and ROGER FREEBORN,

Defendants.

**SUPPLEMENTAL AUTHORITY
RE: PROTECTIVE ORDERS**

Case No. 2:15-CV-0828 DN

Judge: Honorable David Nuffer

Magistrate Judge Brooke Wells

Defendants, RaPower-3, LLC; International Automated Systems, LLC; LTB1, LLC; and Neldon Johnson, by and through their counsel of record, Justin D. Heideman of the law firm Heideman & Associates, pursuant to this Court's request for supplemental authority regarding protective orders against the federal government, provides the following:

1. *In re Grand Jury Subpoena Duces Tecum etc.*, 945 F.2d 1221, 1224 (2nd Cir. 1991)(a

protective order is enforceable against the federal government, even when the federal government is a third party).

2. *Martindell v. International Tel. & Tel. Corp.*, 594 F.2d 291, 296 (2nd Cir. 1979)(“ a witness should be entitled to rely upon the enforceability of a protective order against any third parties, including the Government, and that such an order should not be vacated or modified merely to accommodate the Government's desire to inspect protected testimony for possible use in a criminal investigation, either as evidence or as the subject of a possible perjury charge”)(See also *United States v. Oshatz*, 700 F. Supp. 696, 702 (S.D.N.Y. 1988); *Minpeco S.A. v. Conticommodity Services, Inc.*, 832 F.2d 739 (2nd Cir. 1987)).
3. *SEC v. Merrill Scott & Assocs., Ltd.*, 600 F.3d 1262, 1272 (10th Cir. 2010)(“Where . . . it is the federal government that seeks to undermine the continued integrity of the protective order, however, courts have required a greater showing than the typical standard”)(See also *SEC v. TheStreet.com*, 273 F.3d 222 (2nd Cir. 2001)).

SIGNED and DATED this 3rd day of August, 2016.

HEIDEMAN & ASSOCIATES

/s/ Justin D. Heideman

JUSTIN D. HEIDEMAN

Attorney for RAPower-3, LLC, International Automated Systems, Inc., LTBI, and Neldon Johnson

CERTIFICATE OF SERVICE

On this 3rd day of August, 2016, I hereby certify a true and correct copy of the forgoing **SUPPLEMENTAL AUTHORITY RE: PROTECTIVE ORDERS** was served on the following:

Party/Attorney	Method
<p><i>Former Attorneys for Defendants</i></p> <p>James S. Judd Richard A. Van Wagoner Rodney R. Parker Samuel Alba Snow Christensen & Martineau 10 Exchange Place 11th FL P.O. Box 45000 Salt Lake City, Utah 84145 Tele: (801) 521-9000 Email: jsj@scmlaw.com rvanwagoner@scmlaw.com rparker@scmlaw.com sa@scmlaw.com</p>	<p>Hand Delivery U.S. Mail, postage prepaid Overnight Mail Fax Transmission <u>X</u> Electronic Filing Notice</p>
<p><i>Attorney for Defendants</i></p> <p>R. Gregory Shepard Roger Freeborn</p> <p>Donald S. Reay Reay Law PLLC 43 W 9000 S Ste B Sandy, Utah 84070 Tele: (801) 999-8529 Email: donald@reaylaw.com</p>	<p>Hand Delivery U.S. Mail, postage prepaid Overnight Mail Fax Transmission <u>X</u> Electronic Filing Notice</p>

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/s/ Suzanne Peterson

Suzanne Peterson Legal Assistant