



U.S. Department of Justice

Tax Division

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CMN 2014101376

August 16, 2016

**BY EMAIL**

Paul W. Jones, Esq.  
Hale & Wood, PLLC  
4766 S. Holladay Blvd  
Salt Lake City, UT 84117

RE: *United States v. RaPower-3, LLC, et al.*, No. 2:15-cv-00828-DN-BCW (D. Utah)

Dear Mr. Jones:

Testimony during the depositions of Frank Lunn, Brian Zeleznik, Lynette Williams, and Preston Olsen revealed that there are documents in your clients' possession, custody, or control which are responsive to the United States' subpoenas to them, but which they did not produce. Consistent with our discussions during and after the depositions, and while addressing the non-appearance of Dr. Samuel Otto, I set forth the specific documents below. Please note, however, that the kinds of documents identified here are responsive to *all* document subpoenas that the United States has served on your clients. Therefore, all of your clients should supplement their productions if they have not already produced the following documents.

**Frank Lunn**

On or before August 22, please produce Mr. Lunn's personal federal income tax returns for 2009 through 2014. Please also produce federal tax returns for the same years for any entity in which Mr. Lunn has an ownership interest, which has reporting authority, and which claims a tax deduction, credit, or other tax benefit or consequence as a result of a purported purchase of a lens or lenses. Please also produce documents from Mr. Lunn's "Member Office" or "Back Office" on [www.rapower3.com](http://www.rapower3.com), including the documents at the links "Documents / IRS Info" and "Geneology [*sic*] / View as Grid" and "View as Tree."

**Brian Zeleznik**

On or before August 22, please produce documents from Mr. Zeleznik's "Member Office" or "Back Office" on [www.rapower3.com](http://www.rapower3.com), specifically the documents at the links "Geneology [*sic*] / View as Grid" and "View as Tree."

**Plaintiff  
Exhibit**

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- 2 -

Lynette Williams

Ms. Williams' deposition testimony revealed that her tardy production of two documents was an inadequate response to the United States' subpoena. Ms. Williams stated that she had possession, custody, or control over a number of additional documents responsive to the subpoena. Such documents include a check to IAUS for \$54,000, equipment purchase agreements with IAUS and/or RaPower-3, emails from Gregory Shepard and/or others connected with the solar energy scheme, and, possibly, placed-in-service letters from IAUS and/or RaPower-3. I also note that the two documents Ms. Williams did produce – her tax returns for tax year 2010 and tax year 2011 – show that she carried back tax benefits related to the solar lenses she purportedly purchased to prior tax years. Therefore, Ms. Williams should produce all tax returns, with all supporting documents, for any tax year in which she claimed any deduction, credit, or other tax benefit or consequence as a result of her purported purchase of solar lenses or any other piece of equipment related to the solar energy scheme – including any returns for years into which she may have carried forward a tax consequence beyond tax year 2011. Ms. Williams should also produce all responsive documents from her “Member Office” area on [www.rapower3.com](http://www.rapower3.com), including the documents at the links “Genealogy [*sic*] / View as Grid” and “View as Tree.”

In short, Ms. Williams should undertake the effort required of her in response to a subpoena: search her files (both paper and electronic) for responsive documents and then produce such documents to the United States on or before September 1, 2016.

Preston Olsen

Mr. Olsen made a robust production in response to the United States' subpoena. Even so, his testimony revealed a few additional sets of documents that are responsive which we ask that Mr. Olsen produce on or before September 1. They are 1) the spreadsheets he created to project revenue from the lenses he purportedly purchased from IAUS and/or RaPower-3; 2) his tax returns for 2012 and 2015; and 3) the documents available to him on the IAUS message board. With respect to the last category, Mr. Olsen should produce all pages that are available to him on that message board, not just the posts that he authored. If needed, please confer with us to determine best next steps to ensure that Mr. Olsen produces the documents from the message board responsive to the subpoena without undue burden to him.

Samuel Otto

Dr. Otto did not appear for his deposition. But as I noted on the record on August 11, his production of documents in response to the United States' subpoena was no more than 28 pages. In light of the productions from other solar energy scheme customers and the deposition testimony we have heard to date, it is highly likely that Dr. Otto has far more than 28 pages of responsive documents. Please confirm with me, no later than August 24, that Dr. Otto will supplement his production with all documents responsive to the United States' subpoena on or before September 1.

- 3 -

As we also discussed, all deponents remain subject to their subpoenas for deposition. We will be in touch after they produce the documents requested in this letter to set a mutually convenient day and time to resume their depositions.

Please let me know if you have any questions or concerns.

Sincerely,

/s/ Erin Healy Gallagher

ERIN HEALY GALLAGHER

Trial Attorney

Civil Trial Section, Central Region

CC (by email): Justin Heideman, Esq.  
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Travis Sorenson, Esq.