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**UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

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

Defendants.

**RECEIVER’S DECLARATION ON
LAGRAND JOHNSON AND RANDALE
JOHNSON’S PRODUCTION OF
FINANCIAL RECORDS**

Civil No. 2:15-cv-00828-DN

The Honorable David Nuffer

I, R. Wayne Klein, declare as follows:

1. I am the Court-Appointed Receiver (“Receiver”) in the above captioned matter. I make this declaration based upon my personal knowledge of records delivered to me as Receiver. I have personal knowledge of the statements and matters set forth herein and, if called to testify, would testify as follows.

2. On September 15, 2020, the Court entered an order requiring LaGrand Johnson and Randale Johnson to produce records relating to their accounts at financial institutions and to

take additional steps mandated by the Court (“Records Order”).¹ Specifically, the Johnsons were to:

- a. Acknowledge receipt of the Records Order,
- b. Affirm that they have delivered the Records Order (and included asset freeze) to all financial institutions at which they held funds or accounts,
- c. Identify the balance of each financial account as of February 25, 2020,
- d. Provide copies of account statements for each account for the period since February 25, 2020, and
- e. Provide copies of all account statements for the period from January 1, 2010 to February 25, 2020.²

3. The Records Order directed the Receiver to file a declaration indicating the extent to which LaGrand and Randale Johnson complied with the Records Order.³

4. The Receiver is not aware of any material deficiencies in LaGrand Johnson’s compliance with the Records Order. However, there are material deficiencies in the response of Randale Johnson. He belatedly disclosed five new bank accounts that were not identified in his declaration. At least three, and likely four currently have account balances and there is no indication that he has notified the financial institutions that they need to freeze those accounts.

¹ *Order Granting the United States’ Motion for Production of Bank and Retirement Account Records of LaGrand Johnson and Randale Johnson and for Additional Relief*, [Docket No. 1006](#), filed September 15, 2020.

² *Id.* at ¶¶ 2, 5, 6.

³ *Id.* at ¶ 7. The Receiver notes that he agreed to grant until October 2, 2020 for the production of the account statements going back to 2010. The records delivered on October 2 were voluminous and not always well organized. Accordingly, the Receiver’s review has been somewhat cursory in light of the short turnaround time for this declaration. It is possible that records the Receiver believes are missing were, in fact, among the records delivered.

Acknowledge Receipt of Records Order

5. Both LaGrand Johnson⁴ and Randale Johnson⁵ filed declarations certifying that their counsel at Nelson, Snuffer, Dahle & Poulsen delivered copies of the Records Order to them on September 18, 2020, three days after entry of the Records Order.

Deliver Asset Freeze Orders, Identify Account Balances, Deliver Account Statements

6. LaGrand Johnson filed a declaration certifying that he had delivered the Records Order to three financial institutions: America First Credit Union (“AFCU”), Zions Bank, and Fidelity Investments.⁶

7. LaGrand Johnson identified four accounts at those three financial institutions and indicated the aggregate balances in those accounts around February 25, 2020 was approximately \$28,500.

8. LaGrand Johnson provided account statements for those four accounts for the period since February 2020, with the most recent statements from one of the Fidelity Investment accounts being June 30, 2020. These account statements show a current aggregate balance of approximately \$24,400.

9. Randale Johnson filed a declaration certifying that he had delivered the Records Order to two financial institutions: Mountain America Credit Union (“MACU”) and Fidelity Investments.⁷

10. Randale Johnson identified three accounts at those two financial institutions, including a business account, and indicated the aggregate balances in those accounts as of February 25, 2020 was approximately \$56,250.

⁴ [Docket No. 1008](#), filed September 18, 2020.

⁵ [Docket No. 1009](#), filed September 18, 2020.

⁶ [Docket No. 1013](#), filed September 22, 2020.

⁷ [Docket No. 1014](#), filed September 22, 2020.

11. Randale Johnson provided account statements for those three accounts for the period since February 2020, with the most recent statements from one of the Fidelity Investment accounts being June 30, 2020. These account statements show the current aggregate balance of those accounts has dropped to approximately \$6,400.

12. Those account statements indicate that Randale Johnson moved \$48,000 from his account at Fidelity Investments to his account at MACU between March and June 2020 (the four month period after the United States filed its motion). All but approximately \$1,400 of the money that Randale Johnson transferred from Fidelity is no longer in the Mountain America account.

13. As neither LaGrand Johnson nor Randale Johnson reported aggregate account balances close to \$200,000, there were no requests that the Receiver authorize releases from the asset freeze of amounts exceeding \$200,000.

Account Statements for the Period From January 2010 to January 2020

14. LaGrand Johnson delivered copies of account statements for the four accounts identified in his declaration.⁸

a. For the AFCU account, LaGrand Johnson delivered records for the period from the May 1, 2010 opening of the account through September 1, 2020.

b. For the Zions Bank account, he delivered account statements from October 4, 2013 to September 4, 2020. The October 2013 account statement shows a balance in the account prior to October 2013, but no account statements were provided for the earlier periods. Steven Paul indicated by letter that he was unable to obtain records from certain bank accounts for earlier periods.

⁸ The Receiver granted three additional days for LaGrand and Randale Johnson to gather and affix document numbers to these documents and deliver them to the Receiver.

c. The Fidelity trustee account (#4155) was opened on December 23, 2019 and LaGrand Johnson delivered copies of account statements for that account from inception through June 2020.

d. Account statements for the second Fidelity account (containing account #0772, #1599, and #0814) show the accounts were opened on April 30, 2019. LaGrand Johnson provided account statements for these accounts for the period from April 30, 2019 to August 2020.

e. LaGrand Johnson provided summaries describing, for the most part, the sources of deposits into the AFCU, Zions, and Fidelity accounts.

15. The \$200,000 given to LaGrand Johnson by Glenda Johnson on October 5, 2018 was deposited into his Zions Bank account. From there, approximately \$65,000 was transferred to accounts at Fidelity. Other amounts were used to pay taxes, credit card expenses, religious contributions, a payment of \$5,000 to Glenda Johnson, a \$30,000 payment to Chase Sun (to reimburse amounts Roger Hamblin paid for the turbine prototype), and other personal expenses. In January 2020, LaGrand Johnson withdrew \$50,000 in cash from one of the Fidelity accounts.

16. Randale Johnson delivered copies of account statements for the accounts identified above and five additional accounts, including four that appear to still be open.

a. For Randale Johnson's personal account at MACU, he provided account statements from December 2012 to August 2020. The December 2012 account statement indicates that there was a balance the prior month, but no statements were provided for the period before December 2012.⁹ Steven Paul indicated by letter that he was unable to obtain records from certain bank accounts for earlier periods.

⁹ The MACU records for December 2012 through September 2018 were produced to the Receiver the day this Declaration was filed, October 6, 2020.

- b. The Skapa account at MACU was opened in January 2020. Account statements were provided for the period from account opening to August 2020.¹⁰
- c. Randale Johnson has had three accounts at Fidelity Investments.
 - i. A traditional IRA account (#9921) was opened in April 2019 but appears never to have been funded. An account statement was provided for April 2019.
 - ii. A SEP IRA (#8864) was opened in April 2019. Account statements were provided for the period from April 2019 to February 2020, when the account was closed after the transfer of funds to Fidelity #4690.
 - iii. A new IRA account (#4690) was opened on January 3, 2020, with proceeds from the Fidelity #8864 account. Account statements were provided for this account from January 2020 to June 2020.
- d. Randale Johnson had an account at Chase Bank until September 14, 2020, the day before the Records Order was entered. The account was opened on March 4, 2019. Account statements for the period from March 2019 to September 2020 were provided to the Receiver.
- e. Randale Johnson appears currently to have an account at AFCU. That account was opened on June 16, 2020—after the United States’ motion. Randale Johnson provided account statements for June and July 2020. This account was not identified in Randale Johnson’s declaration and he did not affirm at that time that he served a copy of the freeze order on AFCU. As of July 31, 2020, this account had a balance of \$5,727.76.

¹⁰ The Receiver notes that primary funding for this business account appears to have been a \$25,000 investment by LaGrand Johnson on January 15, 2020.

The Receiver does not know if Randale Johnson has directed AFCU to freeze the amount in this account.

f. Randale Johnson newly disclosed a health savings account with Health Equity. This account was opened on June 26, 2018. Randale Johnson provided copies of account statements for June 2018 to August 2020. The account has a current balance of \$8,194.53. The Receiver does not know if Randale Johnson has directed Health Equity to freeze the amount in this account.

g. Randale Johnson newly disclosed an account at Zions Bank (#8227). He provided account statements for the period from January 2013 to September 2020. The January 2013 account statement indicates there was a prior balance, but statements were not provided for periods prior to 2013. The account has a current balance of only \$16.21, but it appears that Randale Johnson did not notify Zions Bank to freeze this account.

h. Randale Johnson also newly identified account #9791 at Zions Bank. He provided account statements for the period from January 2013 to December 2019. The January 2013 account statement indicates there was a prior balance, but the Receiver has not received account statements for any prior period. Because Randale Johnson only delivered account statements through the end of 2019, the Receiver does not know if the account is still open or its current balance. The December 2019 balance was \$113.73. It appears that Randale Johnson did not notify Zions Bank to freeze this account, if it is still open.

i. Randale Johnson provided summaries that identified, for the most part, the sources of the deposits into his financial institution accounts.

17. The \$200,000 that Glenda gave to Randale Johnson in October 2018 was deposited into his MACU savings account. Over the next year, \$193,000 of that amount was transferred to his checking account and disbursed.

18. The Receiver believes there are material deficiencies in the responses of Randale Johnson. He identified five new bank accounts that were not identified in his declaration. At least four, and likely all five, had account balances on February 25, 2020. It appears that the asset freeze order was not served on AFCU, Health Equity, or Zions Bank, where Randale Johnson has current accounts with account balances. His declaration neither disclosed the February 25, 2020 account balances for these accounts nor provided account statements for the post-February 2020 period.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 6th day of October, 2020, at Salt Lake City, Utah.

A handwritten signature in blue ink that reads "Wayne Klein". The signature is written in a cursive style with a horizontal line underneath it.

R. Wayne Klein

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that the above **RECEIVER'S DECLARATION ON LAGRAN JOHNSON AND RANALE JOHNSON'S PRODUCTION OF FINANCIAL RECORDS** was electronically filed with the Clerk of the Court through the CM/ECF system on October 6, 2020, which sent notice of the electronic filing to all counsel of record.

/s/ Michael S. Lehr