
**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

UNITED STATES OF AMERICA,

Plaintiff,

v.

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

Defendants.

**ORDER RE: DEFICIENCIES IN
RANDALE JOHNSON’S PRODUCTION
OF FINANCIAL RECORDS**

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

District Judge David Nuffer

At the Court’s direction, R. Wayne Klein, the Court-Appointed Receiver (“Receiver”), filed a declaration (“Receiver’s Declaration”)¹ identifying deficiencies in Randale Johnson’s compliance with the Court’s September 15, 2020 *Order Granting the United States’ Motion for Production of Bank and Retirement Account Records of LaGrand Johnson and Randale Johnson and for Additional Relief* (“Records Order”).² Randale Johnson filed a response³ and the Receiver filed a reply (“Reply”).⁴

The Court has reviewed the submissions and based thereon, and for good cause appearing, the Court finds and concludes that Randale Johnson failed adequately to comply with the Records

¹ Receiver’s Declaration on LaGrand Johnson and Randale Johnson’s Production of Financial Records, [docket no. 1018](#), filed October 6, 2020.

² [Docket no. 1006](#), filed September 15, 2020.

³ [Docket no. 1020](#), filed October 8, 2020.

⁴ Receiver’s Reply on Declaration on Deficiencies in Randale Johnson’s Production of Financial Records, [docket no. 1049](#), filed December 24, 2020. The Court directed the Receiver to file a reply and submit a proposed order. [Docket no. 1040](#), filed December 16, 2020.

Order. The Records Order required him to deliver the Records Order to financial institutions holding all bank and retirement accounts in his name and to deliver to the Receiver within seven days records showing the account balances of each account as of February 25, 2020. Randale Johnson failed timely to deliver account records for at least four financial institution accounts⁵ and failed to deliver the Records Order to those financial institutions so the account balances would be frozen.

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

1. Randale Johnson shall deliver to the Receiver, within 14 days, copies of account records for the Zions Bank #8227 account for the period from October 2020 to present and for the Zions Bank #9791 account for the period from January 2020 to present.⁶

2. Randale Johnson shall deliver the Records Order forthwith to Health Equity and America First Credit Union, with directions to those institutions to freeze account balances and prevent any further disbursements from the accounts.

3. Randale Johnson shall restore, within 14 days, the Health Equity account to the balance that existed on that account at the close of business on March 10, 2020. Randale Johnson

⁵ According to the Receiver's Declaration, following the filing of Randale Johnson's declaration, [docket no. 1014](#), filed September 22, 2020, Randale Johnson delivered records regarding five additional accounts at four financial institutions. Receiver's Declaration ¶ 16. Of these five additional accounts, the Receiver states (and Randale Johnson does not dispute) that Randale Johnson provided (a) all of the statements for the Chase bank account, which was open between March 2019 and September 2020, *id.* ¶ 16.d; (b) the June and July 2020 statements for an account at America First Credit Union, which was opened on June 16, 2020, *id.* ¶ 16.e; (c) statements between June 2018 and August 2020 for a Health Equity account, which was opened on June 26, 2018, *id.* ¶ 16.f; (d) statements between January 2013 and September 2020 for an account at Zions Bank (#8227) (Although pre-2013 statements for this account were not provided, that does not appear to be a material omission; the Receiver's Reply and proposed order do not seek relief regarding the pre-2013 statements.), *id.* ¶ 16.g, and (e) statements between January 2013 and December 2019 for an account at Zions Bank (#9791). *Id.* ¶ 16.h.

⁶ The Receiver's Reply (consistent with the proposed order submitted therewith) indicates that Randale Johnson should be required to deliver copies of account records for these accounts for the period from October 2018 to present. Reply at 5. But as indicated in footnote 5, *supra*, the Receiver's Declaration states that Randale Johnson has already provided statements for these accounts covering much of that period, which is therefore excluded from this Order.

shall also restore, within 14 days, the America First Credit Union account to the balance that existed on that account on July 31, 2020.⁷

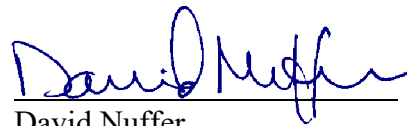
4. Due to the delay in compliance with the Records Order, Randale Johnson shall serve the Records Order on any additional financial institutions where he now has accounts, identify the balances in those accounts as of September 30, 2020, and produce to the Receiver bank records since the inceptions of the additional accounts.

5. Randale Johnson shall file a declaration with the Court, within 21 days, certifying compliance with these requirements.

This Order does not relieve Randale Johnson or LaGrand Johnson from any obligations imposed in the Records Order or any other order of this Court.

Signed December 29, 2020.

BY THE COURT:

A handwritten signature in blue ink, appearing to read "David Nuffer", is written over a horizontal line.

David Nuffer
United States District Judge

⁷ March 10, 2020, is the date the Receiver filed the Motion for Production of Bank and Retirement Account Records of LaGrand Johnson and Randale Johnson and for Additional Relief. Docket no. 876, filed March 10, 2020. In his Reply (and proposed order), the Receiver asks that Randale Johnson be required to restore the Health Equity and America First Credit Union accounts to the balances that existed on those accounts at the close of business on March 10, 2020. Reply at 5. But as indicated in footnote 5, *supra*, the Receiver's Declaration indicates that the America First Credit Union account was opened in June 2020. Receiver's Declaration ¶ 16.e.