

Mantyla, David

February 16, 2017

1

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

UNITED STATES OF)	
AMERICA,)	Deposition of:
)	
Plaintiff,)	DAVID MANTYLA
)	
vs.)	Time on record: 1 Hour,
)	1 Minute
RAPOWER3, LLC,)	
INTERNATIONAL)	Case No. 2:15-cv-00828 DN
AUTOMATED SYSTEMS,)	
)	
INC., LTB1, LLC, R.)	Judge David Nuffer
GREGORY SHEPARD,)	
)	
NELDON JOHNSON and)	
)	
ROGER FREEBORN,)	
)	
)	
Defendants.)	

February 16, 2017 * 1:17 p.m.

Location: United States Attorney's Office
111 South Main Street, Suite 1800
Salt Lake City, Utah

Reporter: Dawn M. Perry, CSR

Notary Public in and for the State of Utah

**Plaintiff
Exhibit**

386

Henderson Legal Services, Inc.

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2 (Pages 2 to 5)

<p style="text-align: right;">2</p> <p style="text-align: center;">A P P E A R A N C E S</p> <p>FOR THE PLAINTIFF:</p> <p>Christopher R. Moran Erin Healy Gallagher Erin R. Hines (Telephonically) United States Department of Justice Trial Attorneys, Tax Division P.O. Box 7328 Washington, D.C. 20044 (202) 307-0834 (Moran) (202) 353-2452 (Healy Gallagher) (202) 514-6770 (fax) christopher.r.moran@usdoj.gov erin.healygallagher@usdoj.gov</p> <p>FOR THE DEFENDANTS, RAPOWER3, LLC, INTERNATIONAL AUTOMATED SYSTEMS, INC., LTB1, LLC, AND NELDON JOHNSON:</p> <p>Christian D. Austin Attorney at Law Heideman & Associates 2969 No. University Avenue Suite 180 Provo, Utah 84604 (801) 472-7742 (801) 374-1724 (fax) caustin@heidlaw.com</p> <p>FOR THE WITNESS:</p> <p>Eric G. Benson Attorney at Law Ray, Quinney & Nebeker 36 South State Street Suite 1400 Salt Lake City, Utah 84111 (801) 532-1500 (801) 532-7543 (fax) ebenson@rqn.com</p>	<p style="text-align: right;">4</p> <p style="text-align: center;">P R O C E E D I N G S</p> <p>MR. MORAN: Good afternoon, Mr. Mantyla. We met previously, but for the record I'll introduce myself again. My name is Chris Moran. I am appearing on behalf of the Department of Justice, Tax Division, on behalf of the United States.</p> <p>Before we go any further, can all the attorneys in the room please make their appearances on the record?</p> <p>MR. BENSON: Eric Benson, Ray, Quinney and Nebeker, appearing on behalf of Mr. Mantyla.</p> <p>MR. AUSTIN: Christian Austin for RaPower3 and Neldon Johnson.</p> <p>MS. HEALY GALLAGHER: Erin Healy Gallagher from the U.S. Department of Justice in the Tax Division. And we have Erin Hines on the phone also from the DOJ.</p> <p>MR. MORAN: There is an additional attorney who is not here, Mr. Donald Reay, who represents defendants R. Gregory Shepard and Roger Freeborn. Mr. Reay is not in attendance this afternoon.</p> <p>For the record, this deposition will be governed by the Federal Rules of Civil Procedure and</p>																
<p style="text-align: right;">3</p> <p style="text-align: center;">I N D E X</p> <table> <tr> <td>DAVID MANTYLA</td> <td>PAGE</td> </tr> <tr> <td>Examination by Mr. Moran</td> <td>5</td> </tr> <tr> <td colspan="2" style="text-align: center;">* * *</td> </tr> <tr> <td colspan="2" style="text-align: center;">E X H I B I T S</td> </tr> <tr> <td>NO.</td> <td>DESCRIPTION PAGE</td> </tr> <tr> <td>Exhibit 376</td> <td>Invoices 37</td> </tr> <tr> <td>Exhibit 377</td> <td>Invoices 40</td> </tr> <tr> <td colspan="2" style="text-align: center;">* * *</td> </tr> </table>	DAVID MANTYLA	PAGE	Examination by Mr. Moran	5	* * *		E X H I B I T S		NO.	DESCRIPTION PAGE	Exhibit 376	Invoices 37	Exhibit 377	Invoices 40	* * *		<p style="text-align: right;">5</p> <p>the local rules of the District of Utah.</p> <p>If we mark any exhibits today, I will be returning them to the court reporter as this is the last deposition for this week. And we also identified several exhibits in previous depositions which may be referred to throughout your deposition.</p> <p>DAVID MANTYLA, called as a witness, being first sworn, was examined and testified as follows:</p> <p style="text-align: center;">E X A M I N A T I O N</p> <p>BY MR. MORAN:</p> <p>Q. Mr. Mantyla, can you please state your name and business address for the record?</p> <p>A. Yeah. David Mantyla. Current business address is 10337 South Split Rock Drive in South Jordan, Utah, 84009.</p> <p>Q. And can you spell your name for the record?</p> <p>A. M-a-n-t-y-l-a.</p> <p>Q. Who is your current employer?</p> <p>A. Me. Self-employed.</p> <p>Q. Self-employed?</p> <p>A. Yeah. It's David D. Mantyla and Associates.</p> <p>Q. What type of business is that?</p>
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<p style="text-align: right;">6</p> <p>1 A. CPA firm, specializing in tax.</p> <p>2 Q. Okay.</p> <p>3 A. Yeah.</p> <p>4 Q. All right. Before we go any further I</p> <p>5 would like to talk about the ground rules of this</p> <p>6 deposition.</p> <p>7 Have you ever been deposed before?</p> <p>8 A. No.</p> <p>9 Q. Okay. Your attorney may have covered</p> <p>10 this -- some of this with you, but we're going to do</p> <p>11 it again --</p> <p>12 A. Okay.</p> <p>13 Q. -- just in case you have any questions.</p> <p>14 In this deposition I'll be asking you a</p> <p>15 series of questions. My questions and your answers</p> <p>16 will be recorded by the court reporter who is sitting</p> <p>17 here to my left. It's important that we get an</p> <p>18 accurate record of what is said here today. So, to</p> <p>19 that end, I'd ask you to be sure you speak up. Make</p> <p>20 sure that you give verbal responses. That means no</p> <p>21 uh-huhs or head nodding. Do you understand?</p> <p>22 A. Yes.</p> <p>23 Q. We have a tendency in casual conversation</p> <p>24 to speak over one another. We're going to try and</p> <p>25 avoid that today. So I'd ask you to allow me to</p>	<p style="text-align: right;">8</p> <p>1 correct. If that occurs, just let me know and we'll</p> <p>2 let you clear up the record to that previous question</p> <p>3 however you need to.</p> <p>4 A. Okay. Yes.</p> <p>5 Q. You understand?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. I don't anticipate this deposition</p> <p>8 is going to be extremely long, but if the need arises</p> <p>9 during the deposition, you would like to take a</p> <p>10 break, use the bathroom, stretch your legs or consult</p> <p>11 with Mr. Benson, that's fine. My only request is</p> <p>12 that you not ask for a break while a question is</p> <p>13 pending. So that means if you want to take a break,</p> <p>14 answer whatever question is currently pending, to the</p> <p>15 best of your knowledge. Just let me know you want to</p> <p>16 take a break and we'll do that.</p> <p>17 A. Okay.</p> <p>18 Q. Mr. Mantyla, we are here today to get an</p> <p>19 accurate record of the facts as you know them to be,</p> <p>20 related to this case. And the key word being</p> <p>21 accurate and truthful. So I have to ask you a few</p> <p>22 questions. Is there anything that would prevent you</p> <p>23 from understanding and answering my questions today?</p> <p>24 A. No.</p> <p>25 Q. Okay. Are you taking any medications or</p>
<p style="text-align: right;">7</p> <p>1 finish my question; just allow a brief pause before</p> <p>2 you start providing your answer. Do you understand?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. In response to each question your</p> <p>5 task is to give full and complete answers. Do you</p> <p>6 understand that obligation?</p> <p>7 A. Yes.</p> <p>8 Q. Likewise, it's my obligation to ask</p> <p>9 understandable questions of you. If you don't</p> <p>10 understand a question or you want it rephrased,</p> <p>11 please just let me know and I'll do my best to clear</p> <p>12 it up for you. Do you understand?</p> <p>13 A. Yes.</p> <p>14 Q. Throughout today there may be some</p> <p>15 objections on the record by either of the attorneys</p> <p>16 in the room. Unless your attorney, Mr. Benson,</p> <p>17 directs you not to answer a question, I am going to</p> <p>18 ask you to allow them to make their objection but</p> <p>19 then provide the answer to my question. Do you</p> <p>20 understand?</p> <p>21 A. Yes.</p> <p>22 Q. Sometimes it happens in depositions where</p> <p>23 you realize later on that you'd like to expand upon a</p> <p>24 previous answer or you realize that an answer you</p> <p>25 gave previously was incorrect or not entirely</p>	<p style="text-align: right;">9</p> <p>1 drugs that would interfere with your memory?</p> <p>2 A. No.</p> <p>3 Q. Okay. Have you had anything alcoholic to</p> <p>4 drink in the last eight hours?</p> <p>5 A. No.</p> <p>6 Q. Okay. Are you feeling well today?</p> <p>7 A. Yes.</p> <p>8 Q. Is there any reason you can think of why</p> <p>9 you will not be able to answer my questions fully and</p> <p>10 completely today?</p> <p>11 A. No.</p> <p>12 Q. Okay. Let me start out with a series of</p> <p>13 questions. I'm just trying to cover your background</p> <p>14 just to understand how you fit into this case.</p> <p>15 A. Okay.</p> <p>16 Q. How old are you?</p> <p>17 A. Thirty-six.</p> <p>18 Q. Okay. Are you married?</p> <p>19 A. Yes.</p> <p>20 Q. How long have you been married?</p> <p>21 A. Almost 15 years.</p> <p>22 Q. Okay. Do you have any children?</p> <p>23 A. Yes.</p> <p>24 Q. How many?</p> <p>25 A. Four.</p>

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<p style="text-align: right;">10</p> <p>1 Q. Starting with the end of high school, can</p> <p>2 you walk me through your education -- your formal</p> <p>3 education?</p> <p>4 A. Sure. I went to Brigham Young University</p> <p>5 and joined the accounting program. Got my</p> <p>6 undergraduate degree there.</p> <p>7 While I was at school, my wife got her</p> <p>8 master's, and so I left to get a job and kind of put</p> <p>9 my master's degree on hold. And wasn't quite sure</p> <p>10 the direction I wanted to go with that. So I</p> <p>11 eventually got a MBA at University of Phoenix. The</p> <p>12 evening classes fit into my work schedule. And I got</p> <p>13 my CPA license in 2013. I believe it was June</p> <p>14 of 2013. That's my educational background.</p> <p>15 Q. Okay. Let me ask you a few follow-up</p> <p>16 questions on that.</p> <p>17 A. Sure.</p> <p>18 Q. When did you graduate from BYU?</p> <p>19 A. 2004.</p> <p>20 Q. And was that before or after you went to</p> <p>21 work when your wife was getting her master's?</p> <p>22 A. That was during -- so we both got</p> <p>23 undergrad at the same time. We both graduated in</p> <p>24 '04.</p> <p>25 Q. Did you both go to BYU?</p>	<p style="text-align: right;">12</p> <p>1 And then -- and then I was working with</p> <p>2 them. And then I got an offer from Mantyla</p> <p>3 McReynolds -- which my dad was the co-founder in that</p> <p>4 company -- to join them on the accounting side. And</p> <p>5 then I joined them January 2005.</p> <p>6 Q. All right. Where is Merit Medical</p> <p>7 located?</p> <p>8 A. South Jordan, Utah.</p> <p>9 Q. Okay. So it's close to Salt Lake?</p> <p>10 A. Yes.</p> <p>11 Q. You described what you did as grunt work?</p> <p>12 A. Well --</p> <p>13 Q. What does that mean?</p> <p>14 A. Maybe I want to clarify that in case they</p> <p>15 ever saw this. No, it was -- it was a great</p> <p>16 experience. It was low-level, entry-level cost --</p> <p>17 not costing -- cost accounting.</p> <p>18 Q. What does that mean?</p> <p>19 A. We would just verify -- or give management</p> <p>20 reports based on the costs. So we helped the sales</p> <p>21 department on costing out things. And then just</p> <p>22 do -- it's been so long I can't remember exactly, but</p> <p>23 that's basically it. Yeah, just costing -- costing</p> <p>24 out the products. They are a medical device</p> <p>25 manufacturing company, so we were involved on that</p>
<p style="text-align: right;">11</p> <p>1 A. Yes.</p> <p>2 Q. Okay. So you graduated from college, she</p> <p>3 went to get her master's and you went to work?</p> <p>4 A. Correct.</p> <p>5 Q. When you were at BYU, did you have any</p> <p>6 concentration in accounting or --</p> <p>7 A. Yes. Yeah. I was in the Marriott School</p> <p>8 of Management, yeah, and I went through the</p> <p>9 accounting program.</p> <p>10 Q. Within the accounting program, did you</p> <p>11 have any type of specialties?</p> <p>12 A. No. No. Very generic. Yeah. Until you</p> <p>13 actually declare -- or go to the master's -- do the</p> <p>14 master's of accountancy, then you don't declare</p> <p>15 whether you're tax or audit. It's just kind of</p> <p>16 general accounting.</p> <p>17 Q. Okay. And you said you went to work right</p> <p>18 after you graduated from BYU?</p> <p>19 A. Yeah. During my junior year, the summer</p> <p>20 after my junior year I got an internship at a company</p> <p>21 called Merit Medical. And I was in the corporate</p> <p>22 accounting side doing grunt work, grunt-type work.</p> <p>23 And I stayed with them -- I was employed with them</p> <p>24 during my senior year. And I took full employment</p> <p>25 after I graduated, so 2004.</p>	<p style="text-align: right;">13</p> <p>1 side.</p> <p>2 Q. So when you say "costing out," do you mean</p> <p>3 determining what the cost would be of products the</p> <p>4 company was selling?</p> <p>5 A. No, no. That was more -- yeah, yeah, we</p> <p>6 were just accounting for it.</p> <p>7 Q. Okay.</p> <p>8 A. Yeah.</p> <p>9 Q. So after the products are sold and the</p> <p>10 company gets income from that --</p> <p>11 A. Yeah.</p> <p>12 Q. -- you would account for that income?</p> <p>13 A. Sure. Yeah.</p> <p>14 Q. Anything else?</p> <p>15 A. No. No.</p> <p>16 Q. Where were you born and raised?</p> <p>17 A. Salt Lake City.</p> <p>18 Q. Okay. You spent your whole childhood and</p> <p>19 adolescence there?</p> <p>20 A. I did.</p> <p>21 Q. Where did you graduate from high school?</p> <p>22 A. Cottonwood High School.</p> <p>23 Q. You mentioned your dad.</p> <p>24 A. Uh-huh (affirmative).</p> <p>25 Q. What is your dad's name?</p>

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<p style="text-align: right;">14</p> <p>1 A. Donald Mantyla, II.</p> <p>2 Q. You said he is a co-founder of an</p> <p>3 accounting firm?</p> <p>4 A. Yeah, Mantyla McReynolds is the name of</p> <p>5 the firm.</p> <p>6 Q. And then in -- so in January 2005 you went</p> <p>7 to work there?</p> <p>8 A. Correct.</p> <p>9 Q. Okay. What was your first role at Mantyla</p> <p>10 McReynolds?</p> <p>11 A. Mainly tax preparation and meeting with</p> <p>12 clients. Helping set up QuickBooks. You know,</p> <p>13 basic -- basic accounting functions.</p> <p>14 Q. Before we move on to Mantyla McReynolds,</p> <p>15 you mentioned an MBA at the University of Phoenix?</p> <p>16 A. Correct.</p> <p>17 Q. When did you get that?</p> <p>18 A. I want to say 2008.</p> <p>19 Q. All right. So your formal degrees consist</p> <p>20 of a bachelor's in accounting from BYU and an MBA</p> <p>21 from the University of Phoenix?</p> <p>22 A. Correct.</p> <p>23 Q. Anything else?</p> <p>24 A. No.</p> <p>25 Q. All right. Getting back to your job at</p>	<p style="text-align: right;">16</p> <p>1 up. What does that mean?</p> <p>2 A. Install it on their computer. Show them</p> <p>3 how to enter transactions. Show them how to run</p> <p>4 reports. Ask them what their needs are and try and</p> <p>5 fulfill those needs.</p> <p>6 Q. Who is a typical client that would be</p> <p>7 running QuickBooks?</p> <p>8 A. Small business. So closely-held</p> <p>9 companies.</p> <p>10 Q. Okay.</p> <p>11 A. Yeah.</p> <p>12 Q. Are you familiar with QuickBooks?</p> <p>13 A. Yes.</p> <p>14 Q. How did you become familiar with</p> <p>15 QuickBooks?</p> <p>16 A. On-the-job training.</p> <p>17 Q. Was that when you were at Merit Medical or</p> <p>18 after you went to Mantyla McReynolds?</p> <p>19 A. With Mantyla McReynolds, yes.</p> <p>20 Q. All right. So that was in January 2005.</p> <p>21 Did your position or responsibilities at Mantyla</p> <p>22 McReynolds change?</p> <p>23 A. In 2005?</p> <p>24 Q. Well, any time after 2005.</p> <p>25 A. Yes. Yes. And so -- so I started out</p>
<p style="text-align: right;">15</p> <p>1 Mantyla McReynolds.</p> <p>2 A. Okay.</p> <p>3 Q. You said your duties included basic</p> <p>4 accounting and setting up QuickBooks?</p> <p>5 A. Uh-huh (affirmative).</p> <p>6 Q. What does that mean?</p> <p>7 A. So a client would -- you know, in order to</p> <p>8 prepare a tax return you need good financial</p> <p>9 statements. And in order to prepare good financial</p> <p>10 statements, you need good accounting software.</p> <p>11 QuickBooks is predominantly the most common software</p> <p>12 used. So that we were very efficient in</p> <p>13 understanding QuickBooks and helping clients set that</p> <p>14 up to report their information, income and expenses,</p> <p>15 et cetera.</p> <p>16 Q. Okay. So does QuickBooks -- does</p> <p>17 QuickBooks generate financial statements?</p> <p>18 A. Well, you have to click on a button to do</p> <p>19 it, but, yes, if the accounting software -- or the</p> <p>20 accounting information is in there, then there are</p> <p>21 reports in there that you could run.</p> <p>22 Q. Who maintains the information in a typical</p> <p>23 client's QuickBooks?</p> <p>24 A. The client does, typically.</p> <p>25 Q. And you said you help them get that set</p>	<p style="text-align: right;">17</p> <p>1 entry level, if you want to call it that. And then,</p> <p>2 you know, based on my ability to work with clients,</p> <p>3 increased to a supervisor. And then once I got my</p> <p>4 CPA license, I became a manager and then a senior</p> <p>5 manager. So I was a senior -- excuse me -- a senior</p> <p>6 tax manager until I left in July of this -- of last</p> <p>7 year, 2016.</p> <p>8 Q. Okay. So you said you became a manager</p> <p>9 when you got your CPA license?</p> <p>10 A. Yes.</p> <p>11 Q. And I think you testified earlier that was</p> <p>12 2013?</p> <p>13 A. Yes.</p> <p>14 Q. So between 2005 and 2013, what were your</p> <p>15 roles and responsibilities?</p> <p>16 A. Well, tax preparation, mainly.</p> <p>17 Q. Okay.</p> <p>18 A. So I would -- you know, as I gained</p> <p>19 experience and knowledge in meeting with clients, I</p> <p>20 would, you know, meet with them. We would do tax</p> <p>21 planning, tax return preparation, obviously. And I</p> <p>22 also took on roles of mentoring incoming employees.</p> <p>23 Q. What percentage of your time was devoted</p> <p>24 towards tax planning and tax preparation?</p> <p>25 A. Probably 65 percent.</p>

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<p style="text-align: right;">18</p> <p>1 Q. And the remaining 35 percent of the time</p> <p>2 what were you doing?</p> <p>3 A. Working with staff, training, helping them</p> <p>4 improve their skills.</p> <p>5 Q. Okay. Do you recall what your roles and</p> <p>6 responsibilities were in the 2008, 2009 time frame?</p> <p>7 A. I would meet with clients who were, you</p> <p>8 know, obtained by partners or senior managers. And I</p> <p>9 would meet with them. We would discuss tax -- their</p> <p>10 tax situation. Planning involves what has happened,</p> <p>11 what is going to happen and trying to identify tax</p> <p>12 savings opportunities in those areas. And ask</p> <p>13 questions as -- as appropriate.</p> <p>14 Q. So at times that could be soliciting</p> <p>15 information from the clients?</p> <p>16 A. Correct.</p> <p>17 Q. What was the purpose of soliciting</p> <p>18 information from the clients?</p> <p>19 A. Well, in preparing a tax return you are --</p> <p>20 you are required to ask questions that would reflect</p> <p>21 accurately when you prepare that tax return. So if</p> <p>22 they had something in their situation, you were</p> <p>23 required to ask reasonable questions to obtain</p> <p>24 documents and, you know, provide that on the tax</p> <p>25 return.</p>	<p style="text-align: right;">20</p> <p>1 Q. And why is that?</p> <p>2 A. To -- to get an understanding as to what</p> <p>3 happened. You know, I think a lot of times clients</p> <p>4 think that we know everything that has happened in</p> <p>5 their situation and, in fact, they know way more than</p> <p>6 we do. But we can bring a tax knowledge to that</p> <p>7 side. So we need to get an understanding as to what</p> <p>8 actually happened.</p> <p>9 Q. So the information that you obtain from a</p> <p>10 client is used to make sure that you are preparing an</p> <p>11 accurate tax return, right?</p> <p>12 A. Correct.</p> <p>13 Q. Have you ever represented clients before</p> <p>14 the IRS?</p> <p>15 A. No.</p> <p>16 Q. Are you an enrolled agent?</p> <p>17 A. No.</p> <p>18 Q. Are you familiar with Circular 230?</p> <p>19 A. Yes.</p> <p>20 Q. How are you familiar with Circular 230?</p> <p>21 A. Sorry?</p> <p>22 Q. How are you familiar with Circular 230?</p> <p>23 A. How?</p> <p>24 Q. Yes.</p> <p>25 A. I've read it. Is that what you mean?</p>
<p style="text-align: right;">19</p> <p>1 Q. So the information you obtained from</p> <p>2 clients would have been used for preparing their tax</p> <p>3 returns?</p> <p>4 A. Yes.</p> <p>5 Q. And you said this is what you did about</p> <p>6 65 percent of your time?</p> <p>7 A. Yes.</p> <p>8 Q. And the remaining 35 percent was mentoring</p> <p>9 other Mantyla McReynolds' employees?</p> <p>10 A. Yeah. Yes. Yeah. There were quite a few</p> <p>11 policies and procedures that you had to make sure</p> <p>12 everybody understood. Things like that.</p> <p>13 Q. Okay. To what extent would you be</p> <p>14 responsible for verifying what clients told you about</p> <p>15 their tax situations?</p> <p>16 A. Again, you would ask reasonable questions</p> <p>17 and make sure that they have documentation. We're</p> <p>18 not required to see that documentation necessarily,</p> <p>19 but they need to have that documentation. And then</p> <p>20 usually the advice was with the idea that if they</p> <p>21 were audited, they would be able to substantiate what</p> <p>22 they're claiming.</p> <p>23 Q. I think you testified you would ask</p> <p>24 reasonable questions?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">21</p> <p>1 Q. You've read Circular 230, you testified?</p> <p>2 A. Yes.</p> <p>3 Q. Why did you do that?</p> <p>4 A. To get an understanding as to what I</p> <p>5 needed to know.</p> <p>6 Q. Was that when you -- was that during your</p> <p>7 undergrad or when you were prepping for the CPA exam?</p> <p>8 A. With Mantyla McReynolds. It's a -- I</p> <p>9 don't want to say it's a formal policy that we know</p> <p>10 it, but as a CPA you need to know it.</p> <p>11 Q. Okay. And just to be clear, you've never</p> <p>12 represented a client before the IRS?</p> <p>13 A. Correct.</p> <p>14 Q. Have you ever been consulted by a client</p> <p>15 who has a tax dispute with the IRS?</p> <p>16 A. Not that I recall.</p> <p>17 Q. You said at some point after 2013 you</p> <p>18 became a senior manager at Mantyla McReynolds?</p> <p>19 A. Yes.</p> <p>20 Q. And then you testified that you left</p> <p>21 Mantyla McReynolds in July 2016?</p> <p>22 A. Yes.</p> <p>23 Q. And then what did you do?</p> <p>24 A. I started my own CPA firm. I bought</p> <p>25 several of my clients. So during my time with</p>

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<p style="text-align: right;">22</p> <p>1 Mantyla McReynolds I developed a niche with servicing</p> <p>2 health care professionals and -- I don't know if this</p> <p>3 is relevant, but -- but in May of 2016 I was notified</p> <p>4 that Mantyla McReynolds was selling to BDO. And from</p> <p>5 that time until I left in July I met with some of my</p> <p>6 potential new bosses and I didn't believe that my</p> <p>7 clients would be -- I didn't believe that it was in</p> <p>8 the best interests of my clients for me to stay,</p> <p>9 despite being told that I was the next partner. And</p> <p>10 it was obviously a very difficult decision, being my</p> <p>11 dad was a co-founder, et cetera. But, anyway, in</p> <p>12 July I decided to leave and buy -- buy out the</p> <p>13 records for several of my clients.</p> <p>14 Q. Okay. Besides the employment that you've</p> <p>15 testified about, have you ever been employed by</p> <p>16 anyone else?</p> <p>17 A. In what capacity? Just in general?</p> <p>18 Q. Services that you received compensation</p> <p>19 for.</p> <p>20 A. Yes, in high school. I mean, I had some</p> <p>21 jobs then.</p> <p>22 Q. Okay.</p> <p>23 A. Yeah.</p> <p>24 Q. What was the general nature of those jobs?</p> <p>25 A. I worked for -- I was a Boy Scout</p>	<p style="text-align: right;">24</p> <p>1 we need the information by, in order to meet the</p> <p>2 filing deadlines. It talks about expectations on</p> <p>3 both parties' side, that, you know, we are not</p> <p>4 auditing the information, we don't verify its</p> <p>5 accuracy, meaning we're not -- we're not auditing the</p> <p>6 information, you know. We -- it also talks about</p> <p>7 potential disputes and where those would be settled,</p> <p>8 things like that.</p> <p>9 Q. Would it be fair to say that it defines</p> <p>10 the scope of the services that you are going to be</p> <p>11 providing?</p> <p>12 A. Yes. That's a more accurate way to put</p> <p>13 it.</p> <p>14 Q. If a client was having you prepare its tax</p> <p>15 returns, would there be an engagement letter?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And what would that engagement</p> <p>18 letter say?</p> <p>19 A. Basically what -- what I stated, where,</p> <p>20 you know, we would define what was needed to do that</p> <p>21 service, the cost of the service, those kinds of</p> <p>22 things.</p> <p>23 Q. Would the engagement letter provide for</p> <p>24 what would happen in the event that there was a</p> <p>25 dispute over the tax liability of the taxing agency?</p>
<p style="text-align: right;">23</p> <p>1 counselor at a Boy Scout camp. I -- what else? I</p> <p>2 worked as a -- so before our firm moved downtown we</p> <p>3 owned a building in Midvale -- or sorry -- Murray,</p> <p>4 and my brothers and I had a cleaning business that we</p> <p>5 serviced. And so we serviced that building. This</p> <p>6 was before -- this was, again, when I was in junior</p> <p>7 high and high school, so well before I got an</p> <p>8 accounting degree. And then -- let's see. Another</p> <p>9 job I had, I worked for Workers' Compensation Fund of</p> <p>10 Utah.</p> <p>11 Q. When was that?</p> <p>12 A. That was probably the summer of sophomore</p> <p>13 year in high school, I'm thinking.</p> <p>14 Q. Okay. What did you do there?</p> <p>15 A. We were in the mail department. We would</p> <p>16 open up claims and get them to the correct</p> <p>17 departments.</p> <p>18 Q. Anything else?</p> <p>19 A. Not that I can think of.</p> <p>20 Q. Okay. Mr. Mantyla, during your time at</p> <p>21 Mantyla McReynolds, was there a practice of having a</p> <p>22 client sign an engagement letter?</p> <p>23 A. Yes.</p> <p>24 Q. What's an engagement letter?</p> <p>25 A. It explains the terms of -- that -- when</p>	<p style="text-align: right;">25</p> <p>1 A. No. Oh, yes, I believe so. I'm trying to</p> <p>2 remember their engagement letters. Yes.</p> <p>3 Q. All right. Let me ask you this. If a</p> <p>4 client paid you to prepare its tax returns, would the</p> <p>5 scope of the engagement include representing the</p> <p>6 client before the taxing agency?</p> <p>7 A. Yes.</p> <p>8 Q. Was that part of the initial services?</p> <p>9 A. No.</p> <p>10 Q. Would that be a separate engagement?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. So the initial engagement letter</p> <p>13 wouldn't cover the services that would be necessary</p> <p>14 if there was a dispute with the taxing agency?</p> <p>15 A. Correct.</p> <p>16 Q. Do you know if Mantyla McReynolds had an</p> <p>17 engagement letter for every client it prepared a tax</p> <p>18 return for?</p> <p>19 A. I do not know that.</p> <p>20 Q. Okay. Do you ever recall preparing tax</p> <p>21 returns for a client for which there was not an</p> <p>22 engagement letter?</p> <p>23 A. I don't recall.</p> <p>24 Q. Particularly the time before 2013 when you</p> <p>25 were a manager, who assigned you work?</p>

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<p style="text-align: right;">26</p> <p>1 A. The partners.</p> <p>2 Q. Which partners?</p> <p>3 A. Well -- so, Don Mantyla.</p> <p>4 Q. Is that your dad?</p> <p>5 A. Yes. Kim McReynolds. Do you want me to</p> <p>6 list all the partners or...</p> <p>7 Q. Just partners you typically recall getting</p> <p>8 assignments from.</p> <p>9 A. Yeah, mainly Don. Yeah, he was my main</p> <p>10 referral source.</p> <p>11 Q. And that's your dad?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. What about Ken Oveson?</p> <p>14 A. Not typically, no.</p> <p>15 Q. Did you ever have occasion to work with</p> <p>16 Mr. Oveson?</p> <p>17 A. Yes. Yes, occasionally.</p> <p>18 Q. Do you ever recall getting work from him?</p> <p>19 A. Not directly.</p> <p>20 Q. Mr. Mantyla, are you familiar with a</p> <p>21 gentleman by the name of R. Gregory Shepard?</p> <p>22 MR. BENSON: At this point I'm going to</p> <p>23 make a record of the objection that has been made in</p> <p>24 other depositions that this is a pending issue,</p> <p>25 specifically Title 26, United States Code</p>	<p style="text-align: right;">28</p> <p>1 really an objection to the form of the question so</p> <p>2 much as it's an objection I'm putting on the record</p> <p>3 that my client has not waived privileges that exist.</p> <p>4 MR. MORAN: And I'm noting for the record</p> <p>5 that Mr. Austin does not represent R. Gregory</p> <p>6 Shepard.</p> <p>7 MR. BENSON: But we would stipulate for</p> <p>8 the record that none of these former clients have</p> <p>9 executed knowing and voluntarily waivers, and until</p> <p>10 that happens we will proceed in this fashion. Or if</p> <p>11 you have a court order ordering us to answer, we will</p> <p>12 follow that.</p> <p>13 Q. (BY MR. MORAN) Mr. Mantyla, are you</p> <p>14 familiar with an entity known as International</p> <p>15 Automated Systems, Inc.?</p> <p>16 MR. BENSON: Same objection. Same</p> <p>17 instruction.</p> <p>18 THE WITNESS: On the advice of counsel, I</p> <p>19 decline to answer.</p> <p>20 Q. (BY MR. MORAN) Mr. Mantyla, are you</p> <p>21 familiar with a gentleman by the name of</p> <p>22 Neldon Johnson?</p> <p>23 MR. BENSON: Same objection. Same</p> <p>24 instruction.</p> <p>25 THE WITNESS: On the advice of counsel, I</p>
<p style="text-align: right;">27</p> <p>1 Section 7525, and whether or not that confidential --</p> <p>2 those confidentiality provisions apply to the facts</p> <p>3 at issue in this case. It's my understanding that</p> <p>4 that's an issue that is yet to be determined before</p> <p>5 this court and until a determination is made, I'm</p> <p>6 going to instruct my client not to answer any</p> <p>7 questions regarding Mantyla's scope of their</p> <p>8 representation with any former clients, including the</p> <p>9 defendants named in this lawsuit.</p> <p>10 So I would instruct you not to answer</p> <p>11 that.</p> <p>12 THE WITNESS: So based on the advice of my</p> <p>13 counsel...</p> <p>14 MR. BENSON: "I decline to answer."</p> <p>15 THE WITNESS: I decline to answer.</p> <p>16 MR. MORAN: And I'll note for the record</p> <p>17 that Mr. Benson's objection is based on an objection</p> <p>18 that counsel for RaPower3 and Neldon Johnson and</p> <p>19 International Automated Systems and LTB1, LLC, made</p> <p>20 with respect to the -- I think he termed it an</p> <p>21 accounting privilege.</p> <p>22 MR. AUSTIN: Well, I disagree with you to</p> <p>23 the extent you are characterizing the nature of my</p> <p>24 objection. My objection was simply to note that</p> <p>25 there are duties of confidentiality owed. It's not</p>	<p style="text-align: right;">29</p> <p>1 decline to answer.</p> <p>2 Q. (BY MR. MORAN) Mr. Mantyla, are you</p> <p>3 familiar with an entity known as RaPower3?</p> <p>4 MR. BENSON: If you are familiar with them</p> <p>5 as not a client, you can answer. If you have done</p> <p>6 any work related to them, then I would give the same</p> <p>7 instruction.</p> <p>8 THE WITNESS: I'm not familiar.</p> <p>9 Q. (BY MR. MORAN) Okay. Are you familiar</p> <p>10 with an entity known as Bigger Faster Stronger?</p> <p>11 MR. BENSON: Same objection. Same</p> <p>12 instruction.</p> <p>13 THE WITNESS: On the advice of counsel, I</p> <p>14 decline to answer.</p> <p>15 Q. (BY MR. MORAN) Are you familiar with a</p> <p>16 gentleman by the name of Robert Rowbotham?</p> <p>17 MR. BENSON: Same objection. Same</p> <p>18 instruction.</p> <p>19 THE WITNESS: On advice of counsel, I</p> <p>20 decline to answer.</p> <p>21 Q. (BY MR. MORAN) Mr. Mantyla, have you ever</p> <p>22 been involved in preparing a tax return for</p> <p>23 R. Gregory Shepard?</p> <p>24 MR. BENSON: Same objection. Same</p> <p>25 instruction.</p>

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<p style="text-align: right;">30</p> <p>1 THE WITNESS: On the advice of counsel, I</p> <p>2 decline to answer.</p> <p>3 Q. (BY MR. MORAN) Mr. Mantyla, have you ever</p> <p>4 been retained to prepare tax returns for</p> <p>5 Robert Rowbotham or Bigger Faster Stronger?</p> <p>6 MR. BENSON: Same objection and</p> <p>7 instruction.</p> <p>8 THE WITNESS: On advice of counsel, I</p> <p>9 decline to answer.</p> <p>10 Q. (BY MR. MORAN) Mr. Mantyla, are you aware</p> <p>11 of a -- an instance where Bigger Faster Stronger,</p> <p>12 Robert Rowbotham or R. Gregory Shepard became</p> <p>13 involved with a solar energy company that sells solar</p> <p>14 lenses?</p> <p>15 MR. BENSON: Same objection. Same</p> <p>16 instruction.</p> <p>17 THE WITNESS: On advice of counsel, I</p> <p>18 decline to answer.</p> <p>19 Q. (BY MR. MORAN) Mr. Mantyla, are you</p> <p>20 familiar with solar lenses or alternative energy</p> <p>21 systems that are offered through International</p> <p>22 Automated Systems?</p> <p>23 MR. BENSON: Same objection. Same</p> <p>24 instruction.</p> <p>25 THE WITNESS: On the advice of counsel, I</p>	<p style="text-align: right;">32</p> <p>1 been to Delta, Utah?</p> <p>2 MR. BENSON: And I would instruct the</p> <p>3 witness to not answer to the extent that it will</p> <p>4 involve these types -- the representation of a former</p> <p>5 client. If you have otherwise been to Delta, Utah, I</p> <p>6 would instruct you to answer counsel's question.</p> <p>7 THE WITNESS: I have never been.</p> <p>8 Q. (BY MR. MORAN) Do you know where Delta,</p> <p>9 Utah, is?</p> <p>10 A. Roughly.</p> <p>11 Q. Okay. Mr. Mantyla, have you ever claimed</p> <p>12 on anyone's tax return a solar energy tax credit?</p> <p>13 MR. BENSON: To the extent that that</p> <p>14 involves the clients at issue, I would object and</p> <p>15 instruct not to answer. With regard to others</p> <p>16 generally, answer the -- I instruct you to answer the</p> <p>17 question.</p> <p>18 THE WITNESS: I decline to answer that.</p> <p>19 Q. (BY MR. MORAN) On the advice of your</p> <p>20 counsel?</p> <p>21 A. Yes.</p> <p>22 Q. Mr. Mantyla, have you ever claimed</p> <p>23 depreciation on a client's tax return related to</p> <p>24 solar lenses or alternative energy systems?</p> <p>25 MR. BENSON: Same objection. Same</p>
<p style="text-align: right;">31</p> <p>1 decline to answer.</p> <p>2 Q. (BY MR. MORAN) Mr. Mantyla, have you ever</p> <p>3 been involved in preparing a tax return that claims</p> <p>4 either solar tax credits or depreciation related to</p> <p>5 solar lenses or alternative energy systems?</p> <p>6 MR. BENSON: Same objection. Same</p> <p>7 instruction.</p> <p>8 THE WITNESS: On advice of counsel,</p> <p>9 decline to answer.</p> <p>10 Q. (BY MR. MORAN) I apologize if I asked</p> <p>11 this already, but, Mr. Mantyla, have you ever been</p> <p>12 involved in preparing a tax return on behalf of</p> <p>13 Bigger Faster Stronger or Robert Rowbotham that</p> <p>14 claimed a -- any type of tax credit or depreciation</p> <p>15 related to a alternative energy system from</p> <p>16 International Automated Systems?</p> <p>17 MR. BENSON: Objection. Asked and</p> <p>18 answered. Same objection. Same instruction as to</p> <p>19 the clients.</p> <p>20 THE WITNESS: On advice of counsel, I</p> <p>21 decline to answer.</p> <p>22 MR. MORAN: I don't think I covered those.</p> <p>23 MR. BENSON: I just wanted to switch it up</p> <p>24 a little bit.</p> <p>25 Q. (BY MR. MORAN) Mr. Mantyla, have you ever</p>	<p style="text-align: right;">33</p> <p>1 instruction specific to these former clients at</p> <p>2 issue.</p> <p>3 THE WITNESS: On advice of counsel, I</p> <p>4 decline to answer that.</p> <p>5 Q. (BY MR. MORAN) Mr. Mantyla, have you ever</p> <p>6 been involved in researching solar tax credits</p> <p>7 related to solar lenses or alternative energy systems</p> <p>8 located in Delta, Utah?</p> <p>9 MR. BENSON: Same objection. Same</p> <p>10 instruction specific to the clients at issue in this</p> <p>11 case.</p> <p>12 THE WITNESS: On the advice of counsel, I</p> <p>13 decline to answer.</p> <p>14 MR. MORAN: We'll go off the record.</p> <p>15 (A break was taken from 1:57 p.m. to</p> <p>16 1:58 p.m.)</p> <p>17 MR. MORAN: Back on the record.</p> <p>18 Q. Mr. Mantyla, have you ever given -- have</p> <p>19 you ever performed research or given tax advice on</p> <p>20 any type of solar lens or alternative energy system?</p> <p>21 MR. BENSON: Same objection. Same</p> <p>22 instruction as it pertains to the clients at issue in</p> <p>23 this case.</p> <p>24 THE WITNESS: On advice of counsel, I</p> <p>25 decline to answer.</p>

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<p style="text-align: right;">34</p> <p>1 Q. (BY MR. MORAN) Mr. Mantyla, have you ever 2 had conversations or communications with a gentleman 3 by the name of R. Gregory Shepard? 4 MR. BENSON: Same objection. Same 5 instruction? 6 THE WITNESS: On the advice of counsel, I 7 decline to answer. 8 Q. (BY MR. MORAN) Have you ever had 9 conversations or communications with anyone from 10 International Automated Systems, Inc.? 11 MR. BENSON: Same objection. Same 12 instruction. 13 THE WITNESS: On the advice of counsel, I 14 decline to answer. 15 Q. (BY MR. MORAN) Have you ever had 16 communications or conversations with anyone from 17 RaPower3? 18 MR. BENSON: I don't think they were ever 19 a client. 20 THE WITNESS: No. 21 MR. BENSON: Then you can answer. 22 THE WITNESS: No. Sorry. 23 Q. (BY MR. MORAN) Before today had you ever 24 heard of RaPower3? 25 A. Yes.</p>	<p style="text-align: right;">36</p> <p>1 decline to answer. 2 Q. (BY MR. MORAN) Have you ever been 3 involved in the preparation of a tax return for 4 International Automated Systems? 5 MR. BENSON: Same objection. Same 6 instruction. 7 THE WITNESS: On advice of counsel, I 8 decline to answer. 9 Q. (BY MR. MORAN) Have you ever been 10 involved in the preparation of a tax return for 11 Neldon Johnson? 12 MR. BENSON: Same objection. Same 13 instruction. 14 THE WITNESS: On the advice of counsel, I 15 decline to answer. 16 Q. (BY MR. MORAN) We're almost done. Mr. 17 Mantyla, I'm handing you a stack of documents. I'm 18 going to direct your attention to a document that's 19 towards the end. It's marked as Plaintiff's 20 Exhibit 377. 21 A. Can I look at it? 22 MR. MORAN: Actually, let's start on 376. 23 MR. BENSON: I don't have exhibit numbers, 24 so... 25 MR. MORAN: There we go.</p>
<p style="text-align: right;">35</p> <p>1 MR. BENSON: And I would instruct you not 2 to reveal any communications that you have had with 3 me regarding -- those are all privileged. But if you 4 heard of it outside of your conversations with your 5 attorney. 6 THE WITNESS: Yes. 7 Q. (BY MR. MORAN) You have heard of RaPower3 8 in the past? 9 A. Well, define "heard of." 10 Q. When was the first time you heard the name 11 RaPower3? 12 A. On a -- 13 MR. BENSON: I would only object to the 14 extent that it bears on the representation of the 15 clients -- the representation of the clients at issue 16 in this case, namely IAS, Mr. Shepard, Rowbotham. If 17 you've heard of them otherwise, I would instruct you 18 to answer the question. 19 THE WITNESS: On advice of counsel, I 20 decline to answer. 21 Q. (BY MR. MORAN) Have you ever had 22 conversations or communications with Neldon Johnson? 23 MR. BENSON: Same objection. Same 24 instruction. 25 THE WITNESS: On advice of counsel, I</p>	<p style="text-align: right;">37</p> <p>1 Q. Mr. Mantyla, I've directed your attention 2 to Plaintiff's Exhibit 376. Take a moment and 3 familiarize yourself with Plaintiff's Exhibit 376. 4 A. Okay. 5 Q. Mr. Mantyla, do you recognize Plaintiff's 6 Exhibit 376? 7 A. Yes. 8 Q. What is it? 9 MR. BENSON: Object to both the 10 admissibility of the document itself and any 11 testimony describing the contents of the documents 12 for the reasons stated earlier, and instruct the 13 witness not to answer. 14 THE WITNESS: On advice of counsel, I 15 decline to answer. 16 Q. (BY MR. MORAN) Okay. Mr. Mantyla, I'm 17 going to direct your attention to the second page of 18 Exhibit 376. 19 The second page is labeled MM004392. And 20 I will represent to you that Exhibit 376 is a 21 document that Mantyla McReynolds produced pursuant to 22 the government subpoena. And both Mantyla McReynolds 23 and the United States have attached what we call 24 Bates numbers to the exhibits. So when I refer to a 25 page number, I'm referring to the number that appears</p>

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<p style="text-align: right;">38</p> <p>1 down in the bottom right corner.</p> <p>2 A. Okay.</p> <p>3 Q. The second page of Exhibit 376 is Bates-</p> <p>4 numbered MM004392. I direct your attention to the --</p> <p>5 I think it's the third line item on the billing</p> <p>6 worksheet for July 1, 2007, to December 31st, 2008.</p> <p>7 The third line item says, "General" and then "DDM</p> <p>8 1100." And the comment, "Research active</p> <p>9 participation in solar energy company."</p> <p>10 Do you see that line item?</p> <p>11 A. Yes.</p> <p>12 Q. My question to you is, what does this line</p> <p>13 item refer to?</p> <p>14 MR. BENSON: Same objection. Same</p> <p>15 instruction.</p> <p>16 THE WITNESS: On advice of counsel, I</p> <p>17 decline to answer.</p> <p>18 Q. (BY MR. MORAN) Mr. Mantyla, on the third</p> <p>19 line item under Staff the letters DDM appear. Can</p> <p>20 you tell me what DDM means?</p> <p>21 A. My initials, David D. Mantyla.</p> <p>22 Q. Okay. Does that mean that this invoice is</p> <p>23 for services that you performed?</p> <p>24 MR. BENSON: Same objection. Same</p> <p>25 instruction.</p>	<p style="text-align: right;">40</p> <p>1 Plaintiff's Exhibit 377 which was marked this</p> <p>2 morning.</p> <p>3 On the first page at the top of the</p> <p>4 summary it says, "Dave Mantyla, 21.75 hours at \$120."</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. Is Dave Mantyla referring to you?</p> <p>8 A. Yes.</p> <p>9 MR. BENSON: Same -- you are Dave Mantyla.</p> <p>10 THE WITNESS: Yes.</p> <p>11 MR. BENSON: To the extent that it's</p> <p>12 within the document and it relates to these clients,</p> <p>13 same objection. Same instruction. But not to giving</p> <p>14 your name. That's okay.</p> <p>15 THE WITNESS: Right.</p> <p>16 Q. (BY MR. MORAN) Mr. Mantyla, I direct your</p> <p>17 attention to the third page of Exhibit 377, which is</p> <p>18 Bates-numbered MM004397, the first line item. It</p> <p>19 says, "General, Staff, DGM, Activity 1910."</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. You testified earlier that your dad's</p> <p>23 initials are DGM?</p> <p>24 A. Yes.</p> <p>25 Q. Does that mean that this line item refers</p>
<p style="text-align: right;">39</p> <p>1 THE WITNESS: On the advice of counsel, I</p> <p>2 decline to answer.</p> <p>3 Q. (BY MR. MORAN) Mr. Mantyla, I see your</p> <p>4 initials appear here throughout Exhibit 376. Should</p> <p>5 I take that to mean that you performed several</p> <p>6 services for Bigger Faster Stronger?</p> <p>7 MR. BENSON: Same objection. Same</p> <p>8 instruction.</p> <p>9 THE WITNESS: On advice of counsel, I</p> <p>10 decline to answer.</p> <p>11 Q. (BY MR. MORAN) Mr. Mantyla, from the</p> <p>12 comment I see on the third line item, "Research</p> <p>13 active participation in solar energy company," should</p> <p>14 I take that to mean that you have performed research</p> <p>15 into the solar energy companies for Bigger Faster</p> <p>16 Stronger?</p> <p>17 MR. BENSON: Same objection. Same</p> <p>18 instruction.</p> <p>19 THE WITNESS: On advice of counsel, I</p> <p>20 decline to answer.</p> <p>21 Q. (BY MR. MORAN) Mr. Mantyla, what's your</p> <p>22 dad's initials?</p> <p>23 A. DGM.</p> <p>24 Q. Okay. Mr. Mantyla, I direct your</p> <p>25 attention to the -- to this exhibit, Exhibit 3 --</p>	<p style="text-align: right;">41</p> <p>1 to services that he performed?</p> <p>2 MR. BENSON: Same objection. Same</p> <p>3 instruction.</p> <p>4 THE WITNESS: On advice of counsel, I</p> <p>5 decline to answer.</p> <p>6 Q. (BY MR. MORAN) In the comment on line</p> <p>7 one -- on the first line it says, "Consult with Ken</p> <p>8 and Dave regarding solar panel deductions credits."</p> <p>9 Do you see that comment?</p> <p>10 A. Yes.</p> <p>11 Q. My question to you is, who is Ken?</p> <p>12 MR. BENSON: Same objection. Same</p> <p>13 instruction to the extent that it has to do with this</p> <p>14 document. You can talk about who Ken is generally.</p> <p>15 I would advise you to answer on that, but not</p> <p>16 relating to the representation, if that makes sense.</p> <p>17 A. Yes. Ken Oveson was a partner at Mantyla</p> <p>18 McReynolds.</p> <p>19 Q. (BY MR. MORAN) Is that who Ken is</p> <p>20 referring to here?</p> <p>21 MR. BENSON: Same objection. Same</p> <p>22 instruction as to this document.</p> <p>23 THE WITNESS: On advice of counsel, I</p> <p>24 decline to answer.</p> <p>25 Q. (BY MR. MORAN) Do you recall anyone else</p>

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12 (Pages 42 to 45)

<p style="text-align: right;">42</p> <p>1 named Ken at Mantyla McReynolds?</p> <p>2 A. No.</p> <p>3 Q. Okay. Next question on the same comment.</p> <p>4 There is a reference to Dave. My question to you is,</p> <p>5 who is Dave?</p> <p>6 MR. BENSON: Same general objection to any</p> <p>7 testimony about the document. If the question is, is</p> <p>8 there another Dave at Mantyla McReynolds, I will</p> <p>9 instruct you to answer that.</p> <p>10 THE WITNESS: In 2009 I believe I was the</p> <p>11 only Dave at the firm.</p> <p>12 Q. (BY MR. MORAN) You said your dad's name</p> <p>13 was Don?</p> <p>14 A. Yes.</p> <p>15 Q. Did your father, Don Mantyla, consult with</p> <p>16 yourself and Ken Oveson regarding solar panel</p> <p>17 deductions and credits?</p> <p>18 MR. BENSON: Same objection. Same</p> <p>19 instruction.</p> <p>20 THE WITNESS: On advice of counsel, I</p> <p>21 decline to answer.</p> <p>22 Q. (BY MR. MORAN) Mr. Mantyla, I'm going to</p> <p>23 direct your attention to the page that's Bates-</p> <p>24 labeled MM004408. It's towards the end of the</p> <p>25 exhibit. Are you with me?</p>	<p style="text-align: right;">44</p> <p>1 then it says, "Shepard, Greg and Diana."</p> <p>2 Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. Is there any reason to believe that the</p> <p>5 client you are referring to here is not Greg Shepard?</p> <p>6 MR. BENSON: Same objection. Same</p> <p>7 instruction.</p> <p>8 THE WITNESS: On the advice of counsel, I</p> <p>9 decline to answer.</p> <p>10 Q. (BY MR. MORAN) Mr. Mantyla, I'll direct</p> <p>11 your attention to the next-to-last line item on that</p> <p>12 same page. It says, "Taxindiv," t-a-x-i-n-d-i-v,</p> <p>13 "1040, DDM, Activity 3200." Do you see where I'm</p> <p>14 referring to?</p> <p>15 A. Yes.</p> <p>16 Q. And in the comments on that line item it</p> <p>17 says, "Took extra time B/C of solar energy credits."</p> <p>18 What took extra time because of the solar</p> <p>19 energy credits?</p> <p>20 MR. BENSON: Same objection. Same</p> <p>21 instruction.</p> <p>22 THE WITNESS: On advice of counsel, I</p> <p>23 decline to answer.</p> <p>24 Q. (BY MR. MORAN) I also see a comment,</p> <p>25 "Preparation of 2008 individual income tax returns."</p>
<p style="text-align: right;">43</p> <p>1 A. Yes.</p> <p>2 Q. Okay. This is a billing worksheet -- it</p> <p>3 appears to be a billing worksheet for the period</p> <p>4 July 1st, 2007, March 31st, 2009. I am going to</p> <p>5 direct your attention to a line item which is about</p> <p>6 halfway down that page. It says, "General, staff,</p> <p>7 DDM, Activity 3920."</p> <p>8 Do you see where I am referring to?</p> <p>9 A. Yes.</p> <p>10 Q. In that comment it says, "Includes prep</p> <p>11 time for meeting to review solar energy credit info</p> <p>12 which was effective 10-3-08 and extended through</p> <p>13 12-31-15."</p> <p>14 Are you with me?</p> <p>15 A. Yes.</p> <p>16 Q. And then the next comment says, "Meeting</p> <p>17 with client to get 2008 tax information."</p> <p>18 A. Yes.</p> <p>19 Q. Which client are you referring to?</p> <p>20 MR. BENSON: Same objection. Same</p> <p>21 instruction.</p> <p>22 THE WITNESS: On advice of counsel, I</p> <p>23 decline to answer.</p> <p>24 Q. (BY MR. MORAN) Mr. Mantyla, at the top of</p> <p>25 page MM004408 I see the letters "BIGGE100G." And</p>	<p style="text-align: right;">45</p> <p>1 Do you see that comment?</p> <p>2 A. Yes.</p> <p>3 Q. Is this invoice for the preparation of</p> <p>4 Greg Shepard's 2008 individual tax return?</p> <p>5 MR. BENSON: Same objection. Same</p> <p>6 instruction.</p> <p>7 THE WITNESS: On advice of counsel, I</p> <p>8 decline to answer.</p> <p>9 Q. (BY MR. MORAN) The next line in the</p> <p>10 comment says, "Biller: Discuss solar energy credit</p> <p>11 with Don and Ken."</p> <p>12 My question to you is, who is Don?</p> <p>13 MR. BENSON: Same objection. Same</p> <p>14 instruction.</p> <p>15 THE WITNESS: On advice of counsel, I</p> <p>16 decline to answer.</p> <p>17 Q. (BY MR. MORAN) Is there any reason to</p> <p>18 believe that the Ken referred to in this line item is</p> <p>19 not Ken Oveson?</p> <p>20 MR. BENSON: Yeah, same objection. Same</p> <p>21 instruction as it relates to this document.</p> <p>22 THE WITNESS: Yeah, on advice of counsel,</p> <p>23 I decline to answer that.</p> <p>24 MR. MORAN: You want to go off the record?</p> <p>25 MR. BENSON: Yeah, can we go off the</p>

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13 (Pages 46 to 49)

<p style="text-align: right;">46</p> <p>1 record?</p> <p>2 (A break was taken from 2:13 p.m. to</p> <p>3 2:14 p.m.)</p> <p>4 MR. MORAN: We'll go back on.</p> <p>5 Mr. Benson has identified an issue with</p> <p>6 Plaintiff's Exhibit 377. This is a document that</p> <p>7 Mantyla McReynolds produced pursuant to the</p> <p>8 government subpoena. This morning during</p> <p>9 Ken Oveson's deposition we marked this document and</p> <p>10 read into the record that it covered Bates numbers</p> <p>11 MM004395 through MM004410.</p> <p>12 Upon further review by Mr. Benson, the</p> <p>13 parties all agree that the last page of that exhibit,</p> <p>14 which is Bates-numbered MM004410, should not be part</p> <p>15 of the exhibit. It's not germane to this case at</p> <p>16 all. And pursuant to the parties' stipulation we are</p> <p>17 going to remove Bates number 4410 from Exhibit 377.</p> <p>18 Mr. Benson has done so. And Exhibit 377 will now</p> <p>19 consist of MM004395 through MM004409.</p> <p>20 MR. BENSON: Thank you.</p> <p>21 MR. HILL: Does that reflect your</p> <p>22 understanding, Mr. Benson?</p> <p>23 MR. BENSON: Yes, sir.</p> <p>24 MR. MORAN: Mr. Austin?</p> <p>25 MR. AUSTIN: Yes.</p>	<p style="text-align: right;">48</p> <p>1 MR. BENSON: Same objection. Same</p> <p>2 instruction.</p> <p>3 THE WITNESS: On advice of counsel, I</p> <p>4 decline to answer.</p> <p>5 Q. (BY MR. MORAN) Did you share your</p> <p>6 conclusions with anyone at International Automated</p> <p>7 Systems?</p> <p>8 MR. BENSON: Same objection. Same</p> <p>9 instruction.</p> <p>10 THE WITNESS: On advice of counsel,</p> <p>11 decline to answer.</p> <p>12 MR. MORAN: All right. We'll take a short</p> <p>13 break.</p> <p>14 (A break was taken from 2:17 p.m. to</p> <p>15 2:18 p.m.)</p> <p>16 MR. MORAN: Back on the record.</p> <p>17 Q. Mr. Mantyla, I've asked you a series of</p> <p>18 questions today. You've answered some of the</p> <p>19 questions. Is there anything you would like to</p> <p>20 clarify about a response you gave?</p> <p>21 A. No.</p> <p>22 Q. Is there anything you realize now that was</p> <p>23 not completely truthful?</p> <p>24 A. No.</p> <p>25 Q. Okay. Are there any answers you wish to</p>
<p style="text-align: right;">47</p> <p>1 Q. (BY MR. MORAN) Mr. Mantyla, the two</p> <p>2 invoices we just looked at suggest that you and</p> <p>3 possibly -- likely other people at Mantyla McReynolds</p> <p>4 performed research on solar energy credits and</p> <p>5 related deductions. Did you reach any conclusions</p> <p>6 based on your research?</p> <p>7 MR. BENSON: Same objection. Same</p> <p>8 instruction.</p> <p>9 THE WITNESS: On advice of counsel, I</p> <p>10 decline to answer.</p> <p>11 Q. (BY MR. MORAN) Mr. Mantyla, to the extent</p> <p>12 you reached any conclusions, did you share those</p> <p>13 conclusions with anyone?</p> <p>14 MR. BENSON: Same objection. Same</p> <p>15 instruction.</p> <p>16 THE WITNESS: On advice of counsel, I</p> <p>17 decline to answer.</p> <p>18 Q. (BY MR. MORAN) Did you share those --</p> <p>19 your conclusions with R. Gregory Shepard?</p> <p>20 MR. BENSON: Same objection. Same</p> <p>21 instruction.</p> <p>22 THE WITNESS: On advice of counsel, I</p> <p>23 decline to answer.</p> <p>24 Q. (BY MR. MORAN) Did you share any</p> <p>25 conclusions with Neldon Johnson?</p>	<p style="text-align: right;">49</p> <p>1 change before we close this deposition?</p> <p>2 A. No.</p> <p>3 Q. Mr. Mantyla, have you ever been arrested?</p> <p>4 A. No.</p> <p>5 Q. Okay. Have you ever had any type of</p> <p>6 professional discipline?</p> <p>7 A. No.</p> <p>8 Q. Mr. Mantyla, we're going to ask that you</p> <p>9 read and sign the deposition transcript. It will be</p> <p>10 provided to you by the court reporter.</p> <p>11 Do you have any objection to that?</p> <p>12 MR. BENSON: No.</p> <p>13 THE WITNESS: No.</p> <p>14 MR. MORAN: All right. At this point I am</p> <p>15 leaving this deposition open pending resolution of</p> <p>16 the privilege matters that have been raised, meaning</p> <p>17 you'll probably have to come back and answer some</p> <p>18 questions. But at this time I have no further</p> <p>19 questions, and I pass the witness to Mr. Austin.</p> <p>20 MR. AUSTIN: I don't have anything.</p> <p>21 MR. BENSON: No follow-up.</p> <p>22 MR. MORAN: Thank you for your time.</p> <p>23 We're off the record.</p> <p>24 THE WITNESS: Thank you.</p> <p>25 (Deposition suspended at 2:20 p.m.)</p>

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14 (Pages 50 to 51)

<p style="text-align: right;">50</p> <p>1 REPORTER'S CERTIFICATE 2 STATE OF UTAH) 3) ss. 4 COUNTY OF SALT LAKE) 5 6 I, Dawn M. Perry, Certified Shorthand 7 Reporter and Notary Public in and for the State of 8 Utah, do hereby certify: 9 10 That prior to being examined, the witness, 11 DAVID MANTYLA, was by me duly sworn to tell the 12 truth, the whole truth, and nothing but the truth; 13 14 That said deposition was taken down by me 15 in stenotype on February 16, 2017, at the place 16 therein named, and was thereafter transcribed and 17 that a true and correct transcription of said 18 testimony is set forth in the preceding pages. 19 20 I further certify that, in accordance with 21 Rule 30(e), a request having been made to review the 22 transcript, a reading copy was sent to the witness, 23 for the witness to read and sign under penalty of 24 perjury and then return to me for filing with Erin 25 Healy Gallagher, Attorney at Law. 26 27 I further certify that I am not kin or 28 otherwise associated with any of the parties to said 29 cause of action and that I am not interested in the 30 outcome thereof. 31 32 WITNESS MY HAND this 21st day of February, 33 2017. 34 35 Dawn M. Perry, CSR</p>	<p style="text-align: right;">51</p> <p>1 Case: UNITED STATES OF AMERICA vs. RAPOWER3, LLC, 2 INTERNATIONAL AUTOMATED SYSTEMS, INC., LTB1, LLC, R. 3 GREGORY SHEPARD, NELDON JOHNSON and ROGER FREEBORN 4 Case No.: 2:15-cv-00828 DN 5 Reporter: Dawn M. Perry, CSR 6 Date taken: February 16, 2017 7 8 ACKNOWLEDGMENT OF DEPONENT 9 10 I, _____, do hereby 11 acknowledge that I have read and examined the 12 foregoing testimony, and the same is a true, correct 13 and complete transcription of the testimony given by 14 me, and any corrections appear on the attached Errata 15 Sheet signed by me. 16 17 18 _____ 19 (DATE) DAVID MANTYLA 20 21 22 23 24 25</p>
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