

JOHN W. HUBER, United States Attorney (#7226)
JOHN K. MANGUM, Assistant United States Attorney (#2072)
185 South State Street, Suite 300
Salt Lake City, Utah 84111
Telephone: (801) 524-5682
Email: john.mangum@usdoj.gov

ERIN HEALY GALLAGHER, *pro hac vice*
DC Bar No. 985670, erin.healygallagher@usdoj.gov
ERIN R. HINES, *pro hac vice*
FL Bar No. 44175, erin.r.hines@usdoj.gov
CHRISTOPHER R. MORAN, *pro hac vice*
NY Bar No. 5033832, christopher.r.moran@usdoj.gov
Trial Attorneys, Tax Division
U.S. Department of Justice
P.O. Box 7238
Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 353-2452

IN THE UNITED STATES DISTRICT COURT 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.

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

**ORDER GRANTING UNITED
STATES' EXPEDITED MOTION TO
COMPEL DEFENDANTS NELDON
JOHNSON, INTERNATIONAL
AUTOMATED SYSTEMS, INC.,
RAPOWER-3, LLC, AND/OR LTB1,
LLC TO PRODUCE DOCUMENTS**

Judge David Nuffer
Magistrate Judge Evelyn J. Furse

In its expedited motion to compel Defendants Neldon Johnson, International Automated Systems, Inc., RaPower-3, LLC, and LTB1, LLC (“Defendants”) to produce certain documents, the United States seeks five categories of documents:

1. The computer program, or data extracted from it, that (among other things) purportedly tracks solar lens customer names and sales, serial numbers of lenses, and the location of any customer’s lens;
2. All RaPower-3 solar lens purchase agreements with customers since 2010;
3. The solar lens purchase contract between SOLCO I and a “company back East” with a down-payment of \$1 million;¹
4. The list of IAS shareholders; and
5. Any letter or purported documentation that supports Mr. Johnson’s belief that the IRS “exonerated” him by giving him any tax credit.²

The documents in categories 1 through 5 were timely requested in the United States’ requests for the production of documents to the defendants. IT IS HEREBY ORDERED THAT the United States’ motion is GRANTED as follows:

Defendants shall produce the documents in categories 1 through 3 no later than September 28, 2017.

With respect to categories 4 and 5, I find that these documents are within Defendants’ possession, custody, and control, even if they are currently held by third parties. Defendants shall produce the documents in categories 4 and 5 no later than September 15, 2017.

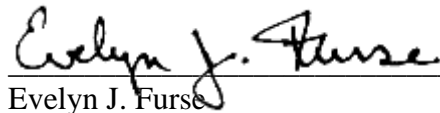
¹ I find that Neldon Johnson has possession, custody, or control of this requested contract based on his deposition testimony submitted with the United States’ motion. *Ice Corp. v. Hamilton Sundstrand Corp.*, 245 F.R.D. 513, 517 (D. Kan. 2007); *Resolution Trust Corp. v. Deloitte & Touche*, 145 F.R.D. 108, 110 (D. Colo. 1992). Johnson testified that he is the manager for SOLCO I and makes all decisions on behalf of the company.

² ECF Doc. No. 210.

If any of the documents in categories 1 through 5 do not exist after a diligent search, Defendants shall so state that under penalty of perjury on or before the date that the documents are due for production. If Defendants do not have the right to require a third-party to produce the documents in category 4, they shall state that under penalty of perjury on or before September 15, 2017.

IT IS SO ORDERED.

DATED this 12th day of September, 2017.

A handwritten signature in cursive script, reading "Evelyn J. Furse", is written over a horizontal line.

Evelyn J. Furse
United States Magistrate Judge