

JOHN W. HUBER, United States Attorney (#7226)
JOHN K. MANGUM, Assistant United States Attorney (#2072)
111 South Main Street, Ste. 1800
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., LTBI,
LLC, R. GREGORY SHEPARD,
NELDON JOHNSON, and ROGER
FREEBORN,

Defendants.

Civil No. 2:15-cv-00828 DN

**UNITED STATES' EXHIBITS IN
SUPPORT OF ITS REPLY IN
SUPPORT OF ITS MOTION FOR
PARTIAL SUMMARY JUDGMENT**

Judge David Nuffer
Magistrate Judge Evelyn J. Furse

Pursuant to DUCivR 56-1(c)(6), the United States submits its exhibits in support of its partial motion for summary judgment. All exhibits that are already on the Court's docket are hyperlinked rather than attached.

Pl. Exhibit No.	ECF Doc. No.	Exhibit Description	Page No.
Pl. Ex. 23	ECF No. 265-5	Draft from Anderson Law Center re. "Potential tax advantages"	4-6, 9
Pl. Ex. 23A		Draft from Anderson Law Center re. "Potential tax advantages"	4
Pl. Ex. 72	ECF No. 254-19	Email from R. Gregory Shepard re. Ra3 New IRS Ploy	16
Pl. Ex. 355		Email from Jason Clement to Kenneth Birrell re. Accountant Packet	
Pl. Ex. 358		Retainer letter from Kirton McConkie to Neldon Johnson of XSun Energy, LLC	
Pl. Ex. 361		Email from Kenneth Birrell to Jason Clement re. Generlized [sic] Documents	8
Pl. Ex. 362		Email from Kenneth Birrell to Jason Clement re. Generlized [sic] Documents	8
Pl. Ex. 363	ECF No. 265-10	Email from Kenneth Birrell to Jason Clement re. Revised Documents	8-9, 11
Pl. Ex. 364		Kirton McConkie bills to Neldon Johnson of XSun Energy, LLC	7
Pl. Ex. 370	ECF No. 162-6	Letter from Kenneth Birrell to Neldon Johnson re. Use of Kirton McConkie Memorandum Dated October 31, 2012	8, 10, 11
Pl. Ex. 409	ECF No. 140-3	Deposition of Kenneth Birrell, vol. 1	7-11
Pl. Ex. 479		Email from R. Gregory Shepard re. RaPower3 Audit – McKonkie [sic] Letter	11, 18
Pl. Ex. 480	ECF No. 213-2	Letter from Tate Bennett to Neldon Johnson and RaPower-3, LLC re. Unauthorized Use of Proprietary Information	10
Pl. Ex. 548		Website capture from RaPower3.com: "Tax Attorney Opinion Letter"	11

Pl. Exhibit No.	ECF Doc. No.	Exhibit Description	Page No.
Pl. Ex. 570	ECF No. 213-3	Letter from Jessica Anderson to Neldon Johnson re. Response to tax questions posed	3, 4, 5, 9
Pl. Ex. 579	ECF No. 256-14	Deposition of Neldon Johnson	10
Pl. Ex. 580		Deposition of Todd Anderson	3-6, 10-11
Pl. Ex. 582	ECF No. 213-13	Email from Jessica Anderson to Todd Anderson re. Investment Property/Income Defined	10
Pl. Ex. 682	ECF No. 256-25	Deposition of RaPower-3, LLC	11, 16
Pl. Ex. 685	ECF No. 256-27	Deposition of R. Gregory Shepard	11
Pl. Ex. 703		Deposition of Jessica Anderson	4-7, 10
Pl. Ex. 704		Deposition of Kenneth Birrell, vol. 2	7-10

Dated: January 12, 2018

Respectfully submitted,

/s/ Erin Healy Gallagher

ERIN HEALY GALLAGHER

DC Bar No. 985760

Email: erin.healygallagher@usdoj.gov

Telephone: (202) 353-2452

ERIN R. HINES

FL Bar No. 44175

Email: erin.r.hines@usdoj.gov

Telephone: (202) 514-6619

CHRISTOPHER R. MORAN

New York Bar No. 5033832

Email: christopher.r.moran@usdoj.gov

Telephone: (202) 307-0834

Trial Attorneys, Tax Division

U.S. Department of Justice

P.O. Box 7238

Ben Franklin Station

Washington, D.C. 20044

FAX: (202) 514-6770

**ATTORNEYS FOR THE
UNITED STATES**

CERTIFICATE OF SERVICE

I hereby certify that on January 12, 2018, the foregoing document and its exhibits were electronically filed with the Clerk of the Court through the CM/ECF system, which sent notice of the electronic filing to all counsel of record.

/s/ Erin Healy Gallagher _____
ERIN HEALY GALLAGHER
Trial Attorney