

# **Exhibit 4**

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

1 A P P E A R A N C E S

2 FOR THE PLAINTIFF:

3 Christopher R. Moran  
4 Erin Healy Gallagher  
5 Erin R. Hines (Telephonically)  
6 United States Department of Justice  
7 Trial Attorneys, Tax Division  
8 P.O. Box 7328  
9 Washington, D.C. 20044  
10 (202) 307-0834 (Moran)  
11 (202) 353-2452 (Healy Gallagher)  
12 (202) 514-6770 (fax)  
13 christopher.r.moran@usdoj.gov  
14 erin.healygallagher@usdoj.gov

15 FOR THE DEFENDANTS, RAPOWER3, LLC, INTERNATIONAL  
16 AUTOMATED SYSTEMS, INC., LTBI, LLC, AND NELDON  
17 JOHNSON:

18 Christian D. Austin  
19 Attorney at Law  
20 Heideman & Associates  
21 2969 No. University Avenue  
22 Suite 180  
23 Provo, Utah 84604  
24 (801) 472-7742  
25 (801) 374-1724 (fax)  
caustin@heidlaw.com

FOR THE WITNESS:

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

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1 P R O C E E D I N G S

2

3 MR. MORAN: Good afternoon, Mr. Mantyla.  
4 We met previously, but for the record I'll introduce  
5 myself again. My name is Chris Moran. I am  
6 appearing on behalf of the Department of Justice, Tax  
7 Division, on behalf of the United States.

8 Before we go any further, can all the  
9 attorneys in the room please make their appearances  
10 on the record?

11 MR. BENSON: Eric Benson, Ray, Quinney and  
12 Nebeker, appearing on behalf of Mr. Mantyla.

13 MR. AUSTIN: Christian Austin for RaPower3  
14 and Neldon Johnson.

15 MS. HEALY GALLAGHER: Erin Healy Gallagher  
16 from the U.S. Department of Justice in the Tax  
17 Division. And we have Erin Hines on the phone also  
18 from the DOJ.

19 MR. MORAN: There is an additional  
20 attorney who is not here, Mr. Donald Reay, who  
21 represents defendants R. Gregory Shepard and Roger  
22 Freeborn. Mr. Reay is not in attendance this  
23 afternoon.

24 For the record, this deposition will be  
25 governed by the Federal Rules of Civil Procedure and

1 the local rules of the District of Utah.

2 If we mark any exhibits today, I will be  
3 returning them to the court reporter as this is the  
4 last deposition for this week. And we also  
5 identified several exhibits in previous depositions  
6 which may be referred to throughout your deposition.

7 DAVID MANTYLA,

8 called as a witness, being first sworn,

9 was examined and testified as follows:

10 EXAMINATION

11 BY MR. MORAN:

12 Q. Mr. Mantyla, can you please state your  
13 name and business address for the record?

14 A. Yeah. David Mantyla. Current business  
15 address is 10337 South Split Rock Drive in South  
16 Jordan, Utah, 84009.

17 Q. And can you spell your name for the  
18 record?

19 A. M-a-n-t-y-l-a.

20 Q. Who is your current employer?

21 A. Me. Self-employed.

22 Q. Self-employed?

23 A. Yeah. It's David D. Mantyla and  
24 Associates.

25 Q. What type of business is that?

1           **A.     CPA firm, specializing in tax.**

2           Q.     Okay.

3           **A.     Yeah.**

4           Q.     All right. Before we go any further I  
5 would like to talk about the ground rules of this  
6 deposition.

7                     Have you ever been deposed before?

8           **A.     No.**

9           Q.     Okay. Your attorney may have covered  
10 this -- some of this with you, but we're going to do  
11 it again --

12          **A.     Okay.**

13          Q.     -- just in case you have any questions.

14                     In this deposition I'll be asking you a  
15 series of questions. My questions and your answers  
16 will be recorded by the court reporter who is sitting  
17 here to my left. It's important that we get an  
18 accurate record of what is said here today. So, to  
19 that end, I'd ask you to be sure you speak up. Make  
20 sure that you give verbal responses. That means no  
21 uh-huhs or head nodding. Do you understand?

22          **A.     Yes.**

23          Q.     We have a tendency in casual conversation  
24 to speak over one another. We're going to try and  
25 avoid that today. So I'd ask you to allow me to

1 finish my question; just allow a brief pause before  
2 you start providing your answer. Do you understand?

3 **A. Yes.**

4 Q. Okay. In response to each question your  
5 task is to give full and complete answers. Do you  
6 understand that obligation?

7 **A. Yes.**

8 Q. Likewise, it's my obligation to ask  
9 understandable questions of you. If you don't  
10 understand a question or you want it rephrased,  
11 please just let me know and I'll do my best to clear  
12 it up for you. Do you understand?

13 **A. Yes.**

14 Q. Throughout today there may be some  
15 objections on the record by either of the attorneys  
16 in the room. Unless your attorney, Mr. Benson,  
17 directs you not to answer a question, I am going to  
18 ask you to allow them to make their objection but  
19 then provide the answer to my question. Do you  
20 understand?

21 **A. Yes.**

22 Q. Sometimes it happens in depositions where  
23 you realize later on that you'd like to expand upon a  
24 previous answer or you realize that an answer you  
25 gave previously was incorrect or not entirely



1 correct. If that occurs, just let me know and we'll  
2 let you clear up the record to that previous question  
3 however you need to.

4 **A. Okay. Yes.**

5 Q. You understand?

6 **A. Yes.**

7 Q. Okay. I don't anticipate this deposition  
8 is going to be extremely long, but if the need arises  
9 during the deposition, you would like to take a  
10 break, use the bathroom, stretch your legs or consult  
11 with Mr. Benson, that's fine. My only request is  
12 that you not ask for a break while a question is  
13 pending. So that means if you want to take a break,  
14 answer whatever question is currently pending, to the  
15 best of your knowledge. Just let me know you want to  
16 take a break and we'll do that.

17 **A. Okay.**

18 Q. Mr. Mantyla, we are here today to get an  
19 accurate record of the facts as you know them to be,  
20 related to this case. And the key word being  
21 accurate and truthful. So I have to ask you a few  
22 questions. Is there anything that would prevent you  
23 from understanding and answering my questions today?

24 **A. No.**

25 Q. Okay. Are you taking any medications or

1 drugs that would interfere with your memory?

2 **A. No.**

3 Q. Okay. Have you had anything alcoholic to  
4 drink in the last eight hours?

5 **A. No.**

6 Q. Okay. Are you feeling well today?

7 **A. Yes.**

8 Q. Is there any reason you can think of why  
9 you will not be able to answer my questions fully and  
10 completely today?

11 **A. No.**

12 Q. Okay. Let me start out with a series of  
13 questions. I'm just trying to cover your background  
14 just to understand how you fit into this case.

15 **A. Okay.**

16 Q. How old are you?

17 **A. Thirty-six.**

18 Q. Okay. Are you married?

19 **A. Yes.**

20 Q. How long have you been married?

21 **A. Almost 15 years.**

22 Q. Okay. Do you have any children?

23 **A. Yes.**

24 Q. How many?

25 **A. Four.**

1 Q. Starting with the end of high school, can  
2 you walk me through your education -- your formal  
3 education?

4 A. Sure. I went to Brigham Young University  
5 and joined the accounting program. Got my  
6 undergraduate degree there.

7 While I was at school, my wife got her  
8 master's, and so I left to get a job and kind of put  
9 my master's degree on hold. And wasn't quite sure  
10 the direction I wanted to go with that. So I  
11 eventually got a MBA at University of Phoenix. The  
12 evening classes fit into my work schedule. And I got  
13 my CPA license in 2013. I believe it was June  
14 of 2013. That's my educational background.

15 Q. Okay. Let me ask you a few follow-up  
16 questions on that.

17 A. Sure.

18 Q. When did you graduate from BYU?

19 A. 2004.

20 Q. And was that before or after you went to  
21 work when your wife was getting her master's?

22 A. That was during -- so we both got  
23 undergrad at the same time. We both graduated in  
24 '04.

25 Q. Did you both go to BYU?

1           **A.     Yes.**

2           Q.     Okay.  So you graduated from college, she  
3 went to get her master's and you went to work?

4           **A.     Correct.**

5           Q.     When you were at BYU, did you have any  
6 concentration in accounting or --

7           **A.     Yes.  Yeah.  I was in the Marriott School  
8 of Management, yeah, and I went through the  
9 accounting program.**

10          Q.     Within the accounting program, did you  
11 have any type of specialties?

12          **A.     No.  No.  Very generic.  Yeah.  Until you  
13 actually declare -- or go to the master's -- do the  
14 master's of accountancy, then you don't declare  
15 whether you're tax or audit.  It's just kind of  
16 general accounting.**

17          Q.     Okay.  And you said you went to work right  
18 after you graduated from BYU?

19          **A.     Yeah.  During my junior year, the summer  
20 after my junior year I got an internship at a company  
21 called Merit Medical.  And I was in the corporate  
22 accounting side doing grunt work, grunt-type work.  
23 And I stayed with them -- I was employed with them  
24 during my senior year.  And I took full employment  
25 after I graduated, so 2004.**

1                   And then -- and then I was working with  
2 them. And then I got an offer from Mantyla  
3 McReynolds -- which my dad was the co-founder in that  
4 company -- to join them on the accounting side. And  
5 then I joined them January 2005.

6           Q.       All right. Where is Merit Medical  
7 located?

8           A.       South Jordan, Utah.

9           Q.       Okay. So it's close to Salt Lake?

10          A.       Yes.

11          Q.       You described what you did as grunt work?

12          A.       Well --

13          Q.       What does that mean?

14          A.       Maybe I want to clarify that in case they  
15 ever saw this. No, it was -- it was a great  
16 experience. It was low-level, entry-level cost --  
17 not costing -- cost accounting.

18          Q.       What does that mean?

19          A.       We would just verify -- or give management  
20 reports based on the costs. So we helped the sales  
21 department on costing out things. And then just  
22 do -- it's been so long I can't remember exactly, but  
23 that's basically it. Yeah, just costing -- costing  
24 out the products. They are a medical device  
25 manufacturing company, so we were involved on that

1 **side.**

2 Q. So when you say "costing out," do you mean  
3 determining what the cost would be of products the  
4 company was selling?

5 **A. No, no. That was more -- yeah, yeah, we**  
6 **were just accounting for it.**

7 Q. Okay.

8 **A. Yeah.**

9 Q. So after the products are sold and the  
10 company gets income from that --

11 **A. Yeah.**

12 Q. -- you would account for that income?

13 **A. Sure. Yeah.**

14 Q. Anything else?

15 **A. No. No.**

16 Q. Where were you born and raised?

17 **A. Salt Lake City.**

18 Q. Okay. You spent your whole childhood and  
19 adolescence there?

20 **A. I did.**

21 Q. Where did you graduate from high school?

22 **A. Cottonwood High School.**

23 Q. You mentioned your dad.

24 **A. Uh-huh (affirmative).**

25 Q. What is your dad's name?

1           **A.     Donald Mantyla, II.**

2           Q.     You said he is a co-founder of an  
3     accounting firm?

4           **A.     Yeah, Mantyla McReynolds is the name of**  
5     **the firm.**

6           Q.     And then in -- so in January 2005 you went  
7     to work there?

8           **A.     Correct.**

9           Q.     Okay. What was your first role at Mantyla  
10    McReynolds?

11          **A.     Mainly tax preparation and meeting with**  
12    **clients. Helping set up QuickBooks. You know,**  
13    **basic -- basic accounting functions.**

14          Q.     Before we move on to Mantyla McReynolds,  
15    you mentioned an MBA at the University of Phoenix?

16          **A.     Correct.**

17          Q.     When did you get that?

18          **A.     I want to say 2008.**

19          Q.     All right. So your formal degrees consist  
20    of a bachelor's in accounting from BYU and an MBA  
21    from the University of Phoenix?

22          **A.     Correct.**

23          Q.     Anything else?

24          **A.     No.**

25          Q.     All right. Getting back to your job at

1 Mantyla McReynolds.

2 **A. Okay.**

3 Q. You said your duties included basic  
4 accounting and setting up QuickBooks?

5 **A. Uh-huh (affirmative).**

6 Q. What does that mean?

7 **A. So a client would -- you know, in order to**  
8 **prepare a tax return you need good financial**  
9 **statements. And in order to prepare good financial**  
10 **statements, you need good accounting software.**  
11 **QuickBooks is predominantly the most common software**  
12 **used. So that we were very efficient in**  
13 **understanding QuickBooks and helping clients set that**  
14 **up to report their information, income and expenses,**  
15 **et cetera.**

16 Q. Okay. So does QuickBooks -- does  
17 QuickBooks generate financial statements?

18 **A. Well, you have to click on a button to do**  
19 **it, but, yes, if the accounting software -- or the**  
20 **accounting information is in there, then there are**  
21 **reports in there that you could run.**

22 Q. Who maintains the information in a typical  
23 client's QuickBooks?

24 **A. The client does, typically.**

25 Q. And you said you help them get that set



1 up. What does that mean?

2 **A. Install it on their computer. Show them**  
3 **how to enter transactions. Show them how to run**  
4 **reports. Ask them what their needs are and try and**  
5 **fulfill those needs.**

6 Q. Who is a typical client that would be  
7 running QuickBooks?

8 **A. Small business. So closely-held**  
9 **companies.**

10 Q. Okay.

11 **A. Yeah.**

12 Q. Are you familiar with QuickBooks?

13 **A. Yes.**

14 Q. How did you become familiar with  
15 QuickBooks?

16 **A. On-the-job training.**

17 Q. Was that when you were at Merit Medical or  
18 after you went to Mantyla McReynolds?

19 **A. With Mantyla McReynolds, yes.**

20 Q. All right. So that was in January 2005.

21 Did your position or responsibilities at Mantyla  
22 McReynolds change?

23 **A. In 2005?**

24 Q. Well, any time after 2005.

25 **A. Yes. Yes. And so -- so I started out**

1 entry level, if you want to call it that. And then,  
2 you know, based on my ability to work with clients,  
3 increased to a supervisor. And then once I got my  
4 CPA license, I became a manager and then a senior  
5 manager. So I was a senior -- excuse me -- a senior  
6 tax manager until I left in July of this -- of last  
7 year, 2016.

8 Q. Okay. So you said you became a manager  
9 when you got your CPA license?

10 A. Yes.

11 Q. And I think you testified earlier that was  
12 2013?

13 A. Yes.

14 Q. So between 2005 and 2013, what were your  
15 roles and responsibilities?

16 A. Well, tax preparation, mainly.

17 Q. Okay.

18 A. So I would -- you know, as I gained  
19 experience and knowledge in meeting with clients, I  
20 would, you know, meet with them. We would do tax  
21 planning, tax return preparation, obviously. And I  
22 also took on roles of mentoring incoming employees.

23 Q. What percentage of your time was devoted  
24 towards tax planning and tax preparation?

25 A. Probably 65 percent.

1 Q. And the remaining 35 percent of the time  
2 what were you doing?

3 A. Working with staff, training, helping them  
4 improve their skills.

5 Q. Okay. Do you recall what your roles and  
6 responsibilities were in the 2008, 2009 time frame?

7 A. I would meet with clients who were, you  
8 know, obtained by partners or senior managers. And I  
9 would meet with them. We would discuss tax -- their  
10 tax situation. Planning involves what has happened,  
11 what is going to happen and trying to identify tax  
12 savings opportunities in those areas. And ask  
13 questions as -- as appropriate.

14 Q. So at times that could be soliciting  
15 information from the clients?

16 A. Correct.

17 Q. What was the purpose of soliciting  
18 information from the clients?

19 A. Well, in preparing a tax return you are --  
20 you are required to ask questions that would reflect  
21 accurately when you prepare that tax return. So if  
22 they had something in their situation, you were  
23 required to ask reasonable questions to obtain  
24 documents and, you know, provide that on the tax  
25 return.

1 Q. So the information you obtained from  
2 clients would have been used for preparing their tax  
3 returns?

4 A. Yes.

5 Q. And you said this is what you did about  
6 65 percent of your time?

7 A. Yes.

8 Q. And the remaining 35 percent was mentoring  
9 other Mantyla McReynolds' employees?

10 A. Yeah. Yes. Yeah. There were quite a few  
11 policies and procedures that you had to make sure  
12 everybody understood. Things like that.

13 Q. Okay. To what extent would you be  
14 responsible for verifying what clients told you about  
15 their tax situations?

16 A. Again, you would ask reasonable questions  
17 and make sure that they have documentation. We're  
18 not required to see that documentation necessarily,  
19 but they need to have that documentation. And then  
20 usually the advice was with the idea that if they  
21 were audited, they would be able to substantiate what  
22 they're claiming.

23 Q. I think you testified you would ask  
24 reasonable questions?

25 A. Yes.

1 Q. And why is that?

2 A. To -- to get an understanding as to what  
3 happened. You know, I think a lot of times clients  
4 think that we know everything that has happened in  
5 their situation and, in fact, they know way more than  
6 we do. But we can bring a tax knowledge to that  
7 side. So we need to get an understanding as to what  
8 actually happened.

9 Q. So the information that you obtain from a  
10 client is used to make sure that you are preparing an  
11 accurate tax return, right?

12 A. Correct.

13 Q. Have you ever represented clients before  
14 the IRS?

15 A. No.

16 Q. Are you an enrolled agent?

17 A. No.

18 Q. Are you familiar with Circular 230?

19 A. Yes.

20 Q. How are you familiar with Circular 230?

21 A. Sorry?

22 Q. How are you familiar with Circular 230?

23 A. How?

24 Q. Yes.

25 A. I've read it. Is that what you mean?

1 Q. You've read Circular 230, you testified?

2 A. Yes.

3 Q. Why did you do that?

4 A. To get an understanding as to what I  
5 needed to know.

6 Q. Was that when you -- was that during your  
7 undergrad or when you were prepping for the CPA exam?

8 A. With Mantyla McReynolds. It's a -- I  
9 don't want to say it's a formal policy that we know  
10 it, but as a CPA you need to know it.

11 Q. Okay. And just to be clear, you've never  
12 represented a client before the IRS?

13 A. Correct.

14 Q. Have you ever been consulted by a client  
15 who has a tax dispute with the IRS?

16 A. Not that I recall.

17 Q. You said at some point after 2013 you  
18 became a senior manager at Mantyla McReynolds?

19 A. Yes.

20 Q. And then you testified that you left  
21 Mantyla McReynolds in July 2016?

22 A. Yes.

23 Q. And then what did you do?

24 A. I started my own CPA firm. I bought  
25 several of my clients. So during my time with

1 Mantyla McReynolds I developed a niche with servicing  
2 health care professionals and -- I don't know if this  
3 is relevant, but -- but in May of 2016 I was notified  
4 that Mantyla McReynolds was selling to BDO. And from  
5 that time until I left in July I met with some of my  
6 potential new bosses and I didn't believe that my  
7 clients would be -- I didn't believe that it was in  
8 the best interests of my clients for me to stay,  
9 despite being told that I was the next partner. And  
10 it was obviously a very difficult decision, being my  
11 dad was a co-founder, et cetera. But, anyway, in  
12 July I decided to leave and buy -- buy out the  
13 records for several of my clients.

14 Q. Okay. Besides the employment that you've  
15 testified about, have you ever been employed by  
16 anyone else?

17 A. In what capacity? Just in general?

18 Q. Services that you received compensation  
19 for.

20 A. Yes, in high school. I mean, I had some  
21 jobs then.

22 Q. Okay.

23 A. Yeah.

24 Q. What was the general nature of those jobs?

25 A. I worked for -- I was a Boy Scout

1 counselor at a Boy Scout camp. I -- what else? I  
2 worked as a -- so before our firm moved downtown we  
3 owned a building in Midvale -- or sorry -- Murray,  
4 and my brothers and I had a cleaning business that we  
5 serviced. And so we serviced that building. This  
6 was before -- this was, again, when I was in junior  
7 high and high school, so well before I got an  
8 accounting degree. And then -- let's see. Another  
9 job I had, I worked for Workers' Compensation Fund of  
10 Utah.

11 Q. When was that?

12 A. That was probably the summer of sophomore  
13 year in high school, I'm thinking.

14 Q. Okay. What did you do there?

15 A. We were in the mail department. We would  
16 open up claims and get them to the correct  
17 departments.

18 Q. Anything else?

19 A. Not that I can think of.

20 Q. Okay. Mr. Mantyla, during your time at  
21 Mantyla McReynolds, was there a practice of having a  
22 client sign an engagement letter?

23 A. Yes.

24 Q. What's an engagement letter?

25 A. It explains the terms of -- that -- when



1 we need the information by, in order to meet the  
2 filing deadlines. It talks about expectations on  
3 both parties' side, that, you know, we are not  
4 auditing the information, we don't verify its  
5 accuracy, meaning we're not -- we're not auditing the  
6 information, you know. We -- it also talks about  
7 potential disputes and where those would be settled,  
8 things like that.

9 Q. Would it be fair to say that it defines  
10 the scope of the services that you are going to be  
11 providing?

12 A. Yes. That's a more accurate way to put  
13 it.

14 Q. If a client was having you prepare its tax  
15 returns, would there be an engagement letter?

16 A. Yes.

17 Q. Okay. And what would that engagement  
18 letter say?

19 A. Basically what -- what I stated, where,  
20 you know, we would define what was needed to do that  
21 service, the cost of the service, those kinds of  
22 things.

23 Q. Would the engagement letter provide for  
24 what would happen in the event that there was a  
25 dispute over the tax liability of the taxing agency?

1           **A.     No.  Oh, yes, I believe so.  I'm trying to**  
2     **remember their engagement letters.  Yes.**

3           Q.     All right.  Let me ask you this.  If a  
4     client paid you to prepare its tax returns, would the  
5     scope of the engagement include representing the  
6     client before the taxing agency?

7           **A.     Yes.**

8           Q.     Was that part of the initial services?

9           **A.     No.**

10          Q.     Would that be a separate engagement?

11          **A.     Yes.**

12          Q.     Okay.  So the initial engagement letter  
13     wouldn't cover the services that would be necessary  
14     if there was a dispute with the taxing agency?

15          **A.     Correct.**

16          Q.     Do you know if Mantyla McReynolds had an  
17     engagement letter for every client it prepared a tax  
18     return for?

19          **A.     I do not know that.**

20          Q.     Okay.  Do you ever recall preparing tax  
21     returns for a client for which there was not an  
22     engagement letter?

23          **A.     I don't recall.**

24          Q.     Particularly the time before 2013 when you  
25     were a manager, who assigned you work?

1           **A.     The partners.**

2           Q.     Which partners?

3           **A.     Well -- so, Don Mantyla.**

4           Q.     Is that your dad?

5           **A.     Yes.   Kim McReynolds.  Do you want me to**  
6 **list all the partners or...**

7           Q.     Just partners you typically recall getting  
8 assignments from.

9           **A.     Yeah, mainly Don.  Yeah, he was my main**  
10 **referral source.**

11          Q.     And that's your dad?

12          **A.     Yes.**

13          Q.     Okay.  What about Ken Oveson?

14          **A.     Not typically, no.**

15          Q.     Did you ever have occasion to work with  
16 Mr. Oveson?

17          **A.     Yes.  Yes, occasionally.**

18          Q.     Do you ever recall getting work from him?

19          **A.     Not directly.**

20          Q.     Mr. Mantyla, are you familiar with a  
21 gentleman by the name of R. Gregory Shepard?

22                   MR. BENSON:  At this point I'm going to  
23 make a record of the objection that has been made in  
24 other depositions that this is a pending issue,  
25 specifically Title 26, United States Code

1 Section 7525, and whether or not that confidential --  
2 those confidentiality provisions apply to the facts  
3 at issue in this case. It's my understanding that  
4 that's an issue that is yet to be determined before  
5 this court and until a determination is made, I'm  
6 going to instruct my client not to answer any  
7 questions regarding Mantyla's scope of their  
8 representation with any former clients, including the  
9 defendants named in this lawsuit.

10 So I would instruct you not to answer  
11 that.

12 THE WITNESS: So based on the advice of my  
13 counsel...

14 MR. BENSON: "I decline to answer."

15 THE WITNESS: I decline to answer.

16 MR. MORAN: And I'll note for the record  
17 that Mr. Benson's objection is based on an objection  
18 that counsel for RaPower3 and Neldon Johnson and  
19 International Automated Systems and LTBl, LLC, made  
20 with respect to the -- I think he termed it an  
21 accounting privilege.

22 MR. AUSTIN: Well, I disagree with you to  
23 the extent you are characterizing the nature of my  
24 objection. My objection was simply to note that  
25 there are duties of confidentiality owed. It's not

1 really an objection to the form of the question so  
2 much as it's an objection I'm putting on the record  
3 that my client has not waived privileges that exist.

4 MR. MORAN: And I'm noting for the record  
5 that Mr. Austin does not represent R. Gregory  
6 Shepard.

7 MR. BENSON: But we would stipulate for  
8 the record that none of these former clients have  
9 executed knowing and voluntarily waivers, and until  
10 that happens we will proceed in this fashion. Or if  
11 you have a court order ordering us to answer, we will  
12 follow that.

13 Q. (BY MR. MORAN) Mr. Mantyla, are you  
14 familiar with an entity known as International  
15 Automated Systems, Inc.?

16 MR. BENSON: Same objection. Same  
17 instruction.

18 THE WITNESS: On the advice of counsel, I  
19 decline to answer.

20 Q. (BY MR. MORAN) Mr. Mantyla, are you  
21 familiar with a gentleman by the name of  
22 Neldon Johnson?

23 MR. BENSON: Same objection. Same  
24 instruction.

25 THE WITNESS: On the advice of counsel, I

1 decline to answer.

2 Q. (BY MR. MORAN) Mr. Mantyla, are you  
3 familiar with an entity known as RaPower3?

4 MR. BENSON: If you are familiar with them  
5 as not a client, you can answer. If you have done  
6 any work related to them, then I would give the same  
7 instruction.

8 THE WITNESS: I'm not familiar.

9 Q. (BY MR. MORAN) Okay. Are you familiar  
10 with an entity known as Bigger Faster Stronger?

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) Are you familiar with a  
16 gentleman by the name of Robert Rowbotham?

17 MR. BENSON: Same objection. Same  
18 instruction.

19 THE WITNESS: On advice of counsel, I  
20 decline to answer.

21 Q. (BY MR. MORAN) Mr. Mantyla, have you ever  
22 been involved in preparing a tax return for  
23 R. Gregory Shepard?

24 MR. BENSON: Same objection. Same  
25 instruction.

1 THE WITNESS: On the advice of counsel, I  
2 decline to answer.

3 Q. (BY MR. MORAN) Mr. Mantyla, have you ever  
4 been retained to prepare tax returns for  
5 Robert Rowbotham or Bigger Faster Stronger?

6 MR. BENSON: Same objection and  
7 instruction.

8 THE WITNESS: On advice of counsel, I  
9 decline to answer.

10 Q. (BY MR. MORAN) Mr. Mantyla, are you aware  
11 of a -- an instance where Bigger Faster Stronger,  
12 Robert Rowbotham or R. Gregory Shepard became  
13 involved with a solar energy company that sells solar  
14 lenses?

15 MR. BENSON: Same objection. Same  
16 instruction.

17 THE WITNESS: On advice of counsel, I  
18 decline to answer.

19 Q. (BY MR. MORAN) Mr. Mantyla, are you  
20 familiar with solar lenses or alternative energy  
21 systems that are offered through International  
22 Automated Systems?

23 MR. BENSON: Same objection. Same  
24 instruction.

25 THE WITNESS: On the advice of counsel, I

1 decline to answer.

2 Q. (BY MR. MORAN) Mr. Mantyla, have you ever  
3 been involved in preparing a tax return that claims  
4 either solar tax credits or depreciation related to  
5 solar lenses or alternative energy systems?

6 MR. BENSON: Same objection. Same  
7 instruction.

8 THE WITNESS: On advice of counsel,  
9 decline to answer.

10 Q. (BY MR. MORAN) I apologize if I asked  
11 this already, but, Mr. Mantyla, have you ever been  
12 involved in preparing a tax return on behalf of  
13 Bigger Faster Stronger or Robert Rowbotham that  
14 claimed a -- any type of tax credit or depreciation  
15 related to a alternative energy system from  
16 International Automated Systems?

17 MR. BENSON: Objection. Asked and  
18 answered. Same objection. Same instruction as to  
19 the clients.

20 THE WITNESS: On advice of counsel, I  
21 decline to answer.

22 MR. MORAN: I don't think I covered those.

23 MR. BENSON: I just wanted to switch it up  
24 a little bit.

25 Q. (BY MR. MORAN) Mr. Mantyla, have you ever



1 been to Delta, Utah?

2 MR. BENSON: And I would instruct the  
3 witness to not answer to the extent that it will  
4 involve these types -- the representation of a former  
5 client. If you have otherwise been to Delta, Utah, I  
6 would instruct you to answer counsel's question.

7 THE WITNESS: I have never been.

8 Q. (BY MR. MORAN) Do you know where Delta,  
9 Utah, is?

10 A. **Roughly.**

11 Q. Okay. Mr. Mantyla, have you ever claimed  
12 on anyone's tax return a solar energy tax credit?

13 MR. BENSON: To the extent that that  
14 involves the clients at issue, I would object and  
15 instruct not to answer. With regard to others  
16 generally, answer the -- I instruct you to answer the  
17 question.

18 THE WITNESS: I decline to answer that.

19 Q. (BY MR. MORAN) On the advice of your  
20 counsel?

21 A. **Yes.**

22 Q. Mr. Mantyla, have you ever claimed  
23 depreciation on a client's tax return related to  
24 solar lenses or alternative energy systems?

25 MR. BENSON: Same objection. Same

1 instruction specific to these former clients at  
2 issue.

3 THE WITNESS: On advice of counsel, I  
4 decline to answer that.

5 Q. (BY MR. MORAN) Mr. Mantyla, have you ever  
6 been involved in researching solar tax credits  
7 related to solar lenses or alternative energy systems  
8 located in Delta, Utah?

9 MR. BENSON: Same objection. Same  
10 instruction specific to the clients at issue in this  
11 case.

12 THE WITNESS: On the advice of counsel, I  
13 decline to answer.

14 MR. MORAN: We'll go off the record.

15 (A break was taken from 1:57 p.m. to  
16 1:58 p.m.)

17 MR. MORAN: Back on the record.

18 Q. Mr. Mantyla, have you ever given -- have  
19 you ever performed research or given tax advice on  
20 any type of solar lens or alternative energy system?

21 MR. BENSON: Same objection. Same  
22 instruction as it pertains to the clients at issue in  
23 this case.

24 THE WITNESS: On advice of counsel, I  
25 decline to answer.

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.

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

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.

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

1 down in the bottom right corner.

2 **A. Okay.**

3 Q. The second page of Exhibit 376 is Bates-  
4 numbered MM004392. I direct your attention to the --  
5 I think it's the third line item on the billing  
6 worksheet for July 1, 2007, to December 31st, 2008.  
7 The third line item says, "General" and then "DDM  
8 1100." And the comment, "Research active  
9 participation in solar energy company."

10 Do you see that line item?

11 **A. Yes.**

12 Q. My question to you is, what does this line  
13 item refer to?

14 MR. BENSON: Same objection. Same  
15 instruction.

16 THE WITNESS: On advice of counsel, I  
17 decline to answer.

18 Q. (BY MR. MORAN) Mr. Mantyla, on the third  
19 line item under Staff the letters DDM appear. Can  
20 you tell me what DDM means?

21 **A. My initials, David D. Mantyla.**

22 Q. Okay. Does that mean that this invoice is  
23 for services that you performed?

24 MR. BENSON: Same objection. Same  
25 instruction.

1 THE WITNESS: On the advice of counsel, I  
2 decline to answer.

3 Q. (BY MR. MORAN) Mr. Mantyla, I see your  
4 initials appear here throughout Exhibit 376. Should  
5 I take that to mean that you performed several  
6 services for Bigger Faster Stronger?

7 MR. BENSON: Same objection. Same  
8 instruction.

9 THE WITNESS: On advice of counsel, I  
10 decline to answer.

11 Q. (BY MR. MORAN) Mr. Mantyla, from the  
12 comment I see on the third line item, "Research  
13 active participation in solar energy company," should  
14 I take that to mean that you have performed research  
15 into the solar energy companies for Bigger Faster  
16 Stronger?

17 MR. BENSON: Same objection. Same  
18 instruction.

19 THE WITNESS: On advice of counsel, I  
20 decline to answer.

21 Q. (BY MR. MORAN) Mr. Mantyla, what's your  
22 dad's initials?

23 A. DGM.

24 Q. Okay. Mr. Mantyla, I direct your  
25 attention to the -- to this exhibit, Exhibit 3 --



1 Plaintiff's Exhibit 377 which was marked this  
2 morning.

3 On the first page at the top of the  
4 summary it says, "Dave Mantyla, 21.75 hours at \$120."

5 Do you see that?

6 **A. Yes.**

7 Q. Is Dave Mantyla referring to you?

8 **A. Yes.**

9 MR. BENSON: Same -- you are Dave Mantyla.

10 THE WITNESS: Yes.

11 MR. BENSON: To the extent that it's  
12 within the document and it relates to these clients,  
13 same objection. Same instruction. But not to giving  
14 your name. That's okay.

15 THE WITNESS: Right.

16 Q. (BY MR. MORAN) Mr. Mantyla, I direct your  
17 attention to the third page of Exhibit 377, which is  
18 Bates-numbered MM004397, the first line item. It  
19 says, "General, Staff, DGM, Activity 1910."

20 Do you see that?

21 **A. Yes.**

22 Q. You testified earlier that your dad's  
23 initials are DGM?

24 **A. Yes.**

25 Q. Does that mean that this line item refers

1 to services that he performed?

2 MR. BENSON: Same objection. Same  
3 instruction.

4 THE WITNESS: On advice of counsel, I  
5 decline to answer.

6 Q. (BY MR. MORAN) In the comment on line  
7 one -- on the first line it says, "Consult with Ken  
8 and Dave regarding solar panel deductions credits."

9 Do you see that comment?

10 A. Yes.

11 Q. My question to you is, who is Ken?

12 MR. BENSON: Same objection. Same  
13 instruction to the extent that it has to do with this  
14 document. You can talk about who Ken is generally.  
15 I would advise you to answer on that, but not  
16 relating to the representation, if that makes sense.

17 A. Yes. Ken Oveson was a partner at Mantyla  
18 McReynolds.

19 Q. (BY MR. MORAN) Is that who Ken is  
20 referring to here?

21 MR. BENSON: Same objection. Same  
22 instruction as to this document.

23 THE WITNESS: On advice of counsel, I  
24 decline to answer.

25 Q. (BY MR. MORAN) Do you recall anyone else

1 named Ken at Mantyla McReynolds?

2 **A. No.**

3 Q. Okay. Next question on the same comment.  
4 There is a reference to Dave. My question to you is,  
5 who is Dave?

6 MR. BENSON: Same general objection to any  
7 testimony about the document. If the question is, is  
8 there another Dave at Mantyla McReynolds, I will  
9 instruct you to answer that.

10 THE WITNESS: In 2009 I believe I was the  
11 only Dave at the firm.

12 Q. (BY MR. MORAN) You said your dad's name  
13 was Don?

14 **A. Yes.**

15 Q. Did your father, Don Mantyla, consult with  
16 yourself and Ken Oveson regarding solar panel  
17 deductions and credits?

18 MR. BENSON: Same objection. Same  
19 instruction.

20 THE WITNESS: On advice of counsel, I  
21 decline to answer.

22 Q. (BY MR. MORAN) Mr. Mantyla, I'm going to  
23 direct your attention to the page that's Bates-  
24 labeled MM004408. It's towards the end of the  
25 exhibit. Are you with me?

1           **A.     Yes.**

2           Q.     Okay.  This is a billing worksheet -- it  
3     appears to be a billing worksheet for the period  
4     July 1st, 2007, March 31st, 2009.  I am going to  
5     direct your attention to a line item which is about  
6     halfway down that page.  It says, "General, staff,  
7     DDM, Activity 3920."

8                     Do you see where I am referring to?

9           **A.     Yes.**

10          Q.     In that comment it says, "Includes prep  
11     time for meeting to review solar energy credit info  
12     which was effective 10-3-08 and extended through  
13     12-31-15."

14                     Are you with me?

15          **A.     Yes.**

16          Q.     And then the next comment says, "Meeting  
17     with client to get 2008 tax information."

18          **A.     Yes.**

19          Q.     Which client are you referring to?

20                     MR. BENSON:  Same objection.  Same  
21     instruction.

22                     THE WITNESS:  On advice of counsel, I  
23     decline to answer.

24          Q.     (BY MR. MORAN)  Mr. Mantyla, at the top of  
25     page MM004408 I see the letters "BIGGE100G."  And

1 then it says, "Shepard, Greg and Diana."

2 Do you see that?

3 **A. Yes.**

4 Q. Is there any reason to believe that the  
5 client you are referring to here is not Greg Shepard?

6 MR. BENSON: Same objection. Same  
7 instruction.

8 THE WITNESS: On the advice of counsel, I  
9 decline to answer.

10 Q. (BY MR. MORAN) Mr. Mantyla, I'll direct  
11 your attention to the next-to-last line item on that  
12 same page. It says, "Taxindiv," t-a-x-i-n-d-i-v,  
13 "1040, DDM, Activity 3200." Do you see where I'm  
14 referring to?

15 **A. Yes.**

16 Q. And in the comments on that line item it  
17 says, "Took extra time B/C of solar energy credits."

18 What took extra time because of the solar  
19 energy credits?

20 MR. BENSON: Same objection. Same  
21 instruction.

22 THE WITNESS: On advice of counsel, I  
23 decline to answer.

24 Q. (BY MR. MORAN) I also see a comment,  
25 "Preparation of 2008 individual income tax returns."

1 Do you see that comment?

2 **A. Yes.**

3 Q. Is this invoice for the preparation of  
4 Greg Shepard's 2008 individual tax return?

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) The next line in the  
10 comment says, "Biller: Discuss solar energy credit  
11 with Don and Ken."

12 My question to you is, who is Don?

13 MR. BENSON: Same objection. Same  
14 instruction.

15 THE WITNESS: On advice of counsel, I  
16 decline to answer.

17 Q. (BY MR. MORAN) Is there any reason to  
18 believe that the Ken referred to in this line item is  
19 not Ken Oveson?

20 MR. BENSON: Yeah, same objection. Same  
21 instruction as it relates to this document.

22 THE WITNESS: Yeah, on advice of counsel,  
23 I decline to answer that.

24 MR. MORAN: You want to go off the record?

25 MR. BENSON: Yeah, can we go off the

1 record?

2 (A break was taken from 2:13 p.m. to  
3 2:14 p.m.)

4 MR. MORAN: We'll go back on.

5 Mr. Benson has identified an issue with  
6 Plaintiff's Exhibit 377. This is a document that  
7 Mantyla McReynolds produced pursuant to the  
8 government subpoena. This morning during  
9 Ken Oveson's deposition we marked this document and  
10 read into the record that it covered Bates numbers  
11 MM004395 through MM004410.

12 Upon further review by Mr. Benson, the  
13 parties all agree that the last page of that exhibit,  
14 which is Bates-numbered MM004410, should not be part  
15 of the exhibit. It's not germane to this case at  
16 all. And pursuant to the parties' stipulation we are  
17 going to remove Bates number 4410 from Exhibit 377.  
18 Mr. Benson has done so. And Exhibit 377 will now  
19 consist of MM004395 through MM004409.

20 MR. BENSON: Thank you.

21 MR. HILL: Does that reflect your  
22 understanding, Mr. Benson?

23 MR. BENSON: Yes, sir.

24 MR. MORAN: Mr. Austin?

25 MR. AUSTIN: Yes.

1 Q. (BY MR. MORAN) Mr. Mantyla, the two  
2 invoices we just looked at suggest that you and  
3 possibly -- likely other people at Mantyla McReynolds  
4 performed research on solar energy credits and  
5 related deductions. Did you reach any conclusions  
6 based on your research?

7 MR. BENSON: Same objection. Same  
8 instruction.

9 THE WITNESS: On advice of counsel, I  
10 decline to answer.

11 Q. (BY MR. MORAN) Mr. Mantyla, to the extent  
12 you reached any conclusions, did you share those  
13 conclusions with anyone?

14 MR. BENSON: Same objection. Same  
15 instruction.

16 THE WITNESS: On advice of counsel, I  
17 decline to answer.

18 Q. (BY MR. MORAN) Did you share those --  
19 your conclusions with R. Gregory Shepard?

20 MR. BENSON: Same objection. Same  
21 instruction.

22 THE WITNESS: On advice of counsel, I  
23 decline to answer.

24 Q. (BY MR. MORAN) Did you share any  
25 conclusions with Neldon Johnson?



1 MR. BENSON: Same objection. Same  
2 instruction.

3 THE WITNESS: On advice of counsel, I  
4 decline to answer.

5 Q. (BY MR. MORAN) Did you share your  
6 conclusions with anyone at International Automated  
7 Systems?

8 MR. BENSON: Same objection. Same  
9 instruction.

10 THE WITNESS: On advice of counsel,  
11 decline to answer.

12 MR. MORAN: All right. We'll take a short  
13 break.

14 (A break was taken from 2:17 p.m. to  
15 2:18 p.m.)

16 MR. MORAN: Back on the record.

17 Q. Mr. Mantyla, I've asked you a series of  
18 questions today. You've answered some of the  
19 questions. Is there anything you would like to  
20 clarify about a response you gave?

21 A. No.

22 Q. Is there anything you realize now that was  
23 not completely truthful?

24 A. No.

25 Q. Okay. Are there any answers you wish to

1 change before we close this deposition?

2 **A. No.**

3 Q. Mr. Mantyla, have you ever been arrested?

4 **A. No.**

5 Q. Okay. Have you ever had any type of  
6 professional discipline?

7 **A. No.**

8 Q. Mr. Mantyla, we're going to ask that you  
9 read and sign the deposition transcript. It will be  
10 provided to you by the court reporter.

11 Do you have any objection to that?

12 MR. BENSON: No.

13 THE WITNESS: No.

14 MR. MORAN: All right. At this point I am  
15 leaving this deposition open pending resolution of  
16 the privilege matters that have been raised, meaning  
17 you'll probably have to come back and answer some  
18 questions. But at this time I have no further  
19 questions, and I pass the witness to Mr. Austin.

20 MR. AUSTIN: I don't have anything.

21 MR. BENSON: No follow-up.

22 MR. MORAN: Thank you for your time.

23 We're off the record.

24 THE WITNESS: Thank you.

25 (Deposition suspended at 2:20 p.m.)

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 That prior to being examined, the witness,  
10 DAVID MANTYLA, was by me duly sworn to tell the  
11 truth, the whole truth, and nothing but the truth;

12 That said deposition was taken down by me  
13 in stenotype on February 16, 2017, at the place  
14 therein named, and was thereafter transcribed and  
15 that a true and correct transcription of said  
16 testimony is set forth in the preceding pages.

17 I further certify that, in accordance with  
18 Rule 30(e), a request having been made to review the  
19 transcript, a reading copy was sent to the witness,  
20 for the witness to read and sign under penalty of  
21 perjury and then return to me for filing with Erin  
22 Healy Gallagher, Attorney at Law.

23 I further certify that I am not kin or  
24 otherwise associated with any of the parties to said  
25 cause of action and that I am not interested in the  
outcome thereof.

WITNESS MY HAND this 21st day of February,  
2017.

24 Dawn M. Perry, CSR

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

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