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IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF UTAH

<p>UNITED STATES OF AMERICA,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>RAPOWER-3, LLC, INTERNATIONAL AUTOMATED SYSTEMS, INC., LTBI, LLC, R. GREGORY SHEPARD, NELDON JOHNSON, and ROGER FREEBORN,</p> <p style="text-align: center;">Defendants.</p>	<p style="text-align: center;">UNITED STATES’ INITIAL DISCLOSURES TO ALL DEFENDANTS</p> <p style="text-align: center;">Civil No. 2:15-cv-00828-DN-BCW</p> <p style="text-align: center;">Judge David Nuffer Magistrate Judge Brooke C. Wells</p>
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Pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure, the United States makes the following initial disclosures:

- A. The name and, if known, the address and telephone number of each individual likely to have discoverable information – along with the subjects of that information – that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment.**



1. **R. Gregory Shepard**, 858 Clover Meadow Dr., Murray, Utah 84123, 801-699-2284. R. Gregory Shepard is a defendant in this matter and likely has discoverable information regarding the claims and defenses in this case, including the structure and technology of the solar energy scheme (as described in the United States' complaint and hereinafter referred to as "the solar energy scheme"), statements made by defendants with respect to the solar energy scheme (including about the technology, structure, marketing, revenues, and tax implications), and information regarding the disgorgement claim, including the amount of gross receipts he has received from the solar energy scheme.
2. **Neldon Johnson**, 4035 South 4000 West, Deseret, Utah 84624. Neldon Johnson is a defendant in this matter and likely has discoverable information regarding the claims and defenses in this case, including the structure and technology of the solar energy scheme, statements made by defendants with respect to the solar energy scheme (including about the technology, structure, marketing, revenues, and tax implications), and information regarding the disgorgement claim, including the amount of gross receipts he has received from the solar energy scheme.
3. **Roger Freeborn**, 1145 NE Hill Way, Estacada, Oregon 97023 or P.O. Box 1616, Estacada, OR 97023. Roger Freeborn is a defendant in this matter and likely has discoverable information regarding the claims and defenses in this case, including the structure and technology of the solar energy scheme, statements made by defendants with respect to the solar energy scheme (including about the technology, structure, marketing, revenues, and tax implications), and information regarding the disgorgement claim, including the amount of gross receipts he has received from the solar energy scheme.
4. **Ra-Power3, LLC**. Ra-Power 3, LLC is a defendant in this matter and likely has discoverable information regarding the claims and defenses in this case, including the structure and technology of the solar energy scheme, statements made by defendants with respect to the solar energy scheme (including about the technology, structure, marketing, revenues, and tax implications), and information regarding the disgorgement claim, including the amount of gross receipts it has received from the solar energy scheme.
5. **International Automated Systems, Inc.** ("IAS"). IAS is a defendant in this matter and likely has discoverable information regarding the claims and defenses in this case, including the structure and technology of the solar energy scheme, statements made by defendants with respect to the solar energy scheme (including about the technology, structure, marketing, revenues, and tax implications), and information regarding the disgorgement claim, including the amount of gross receipts it has received from the solar energy scheme.

6. **LTB1, LLC (“LTB”)**. LTB is a defendant in this matter and likely has discoverable information regarding the claims and defenses in this case, including the structure and technology of the solar energy scheme, statements made by defendants with respect to the solar energy scheme (including about the technology, structure, marketing, revenues, and tax implications), and information regarding the disgorgement claim, including the amount of gross receipts it has received from the solar energy scheme.

7. **Customers of any Defendant**. The United States currently does not know the identities of all of defendants’ customers. The United States will disclose the names and contact information of the customers it may rely upon at a later date. Defendants’ customers likely have discoverable information regarding the solar energy scheme (including about the technology, structure, marketing, revenues, tax implications, and statements made by defendants regarding the solar energy scheme) and about the amount of money paid to any defendant and receipt of any money from any defendant. To date, the United States has identified the following customers it may rely upon. The contact information is updated to the best of the United States’ information and knowledge.
 - a. **Jean Armand**, P.O. Box 770848, Miami, FL 33177
 - b. **Nehemy Cher-Frere**, 5068 SW 139 Street, Hollywood, FL 33027
 - c. **Peter and Ranae Gregg**, 38490 Bickford St., Sandy, OR 97055, 503-637-6586
 - d. **Nicholas Kontos**, 8637 Franjo Rd., Cutter Bay, FL 33189 or 8932 SW 22nd Terrace, Cutler Bay, FL 33190-1290
 - e. **Yolette Mezadiou**, P.O. Box 371444, Miami, FL 33137
 - f. **Sam and Gloria Otto**, 2068 Summerwood Dr., Layton, UT 84040, 801-678-1196
 - g. **Bruce Shearer**, 6 Bowline Ct., Bellingham, WA, 98229, 360-757-4074
 - h. **Sterling Shearer**, 10515 Crest View Ln, Eagle River, AK 99577, 360-220-3575
 - i. **Mark and Catherine Sikich**, 8445 Jeffrey Ave. S., Cottage Grove, MN 55016

8. **Sponsors of any Customer**. The United States currently does not know the identities of all of defendants’ sponsors. The United States may rely on information from any individual who is identified as a “sponsor” through discovery in this case. Sponsors likely have discoverable information regarding the solar energy scheme (including about the technology, structure, marketing, revenues, tax implications, and statements made by defendants regarding the solar energy scheme) and about the amount of money paid to any defendant and receipt of any money from any defendant. To date, the United States has identified the following sponsor it may rely upon. The contact information is updated to the best of the United States’ information and knowledge.
 - a. **Paul Brennan**, address currently unknown but believed to be a resident of Utah, 435-632-8081

9. **Distributors of any Defendant.** The United States currently does not know the identities of all of defendants' distributors. The United States may rely on information from any individual who is identified as a distributor through discovery in this case. Distributors likely have discoverable information regarding the solar energy scheme (including about the technology, structure, marketing, revenues, tax implications, and statements made by defendants regarding the solar energy scheme) and about the amount of money paid to any defendant and receipt of any money from any defendant.
10. **Employees or agents of any Defendant.** The United States currently does not know the identities of all of defendants' employees or agents. The United States may rely on information from any individual who is identified as an employee or agent of the defendants. Employees or agents of any defendant are likely to have discoverable information about the structure, operation, maintenance, physical locations, and marketing of defendants' solar energy scheme,, statements made by defendants (including about the technology, structure, marketing, revenues, and tax implications), and about the disgorgement claim.
11. **Banks used by any Defendant for business or personal banking.** The United States currently does not know the identities of every bank used by any defendant for business or personal banking. The United States will disclose the name and contact information for any banks it may rely upon at a later date. Banks used by any defendant are likely to have discoverable information with respect to monies generated from the solar energy scheme which may relate to claims regarding the technology and structure of the solar energy scheme as well as the disgorgement claim.
12. **Matthew Shepard,** address currently unknown, 801-651-2183. Matthew Shepard appears to be employed by RaPower-3 and is likely to have discoverable information regarding the claims and defenses in this case, including the structure and technology of the solar energy scheme, statements made by defendants with respect to the solar energy scheme (including about the technology, structure, marketing, revenues, and tax implications), and information regarding the disgorgement claim, including the amount of gross receipts he or any defendant has received from the solar energy scheme.
13. **Other members of the Shepard family.** The United States has not currently identified any additional members of the Shepard family that it may rely upon in this case. The United States will disclose the name and contact information for any other members of the Shepard family it may rely upon at a later date. Other members of the Shepard family are likely to have discoverable information regarding the claims and defenses in this case, including the structure and technology of the solar energy scheme, statements made by defendants with respect to the solar energy scheme

(including about the technology, structure, marketing, revenues and tax implications), and information regarding the disgorgement claim, including the amount of gross receipts defendants have received from the solar energy scheme.

14. **Members of the Johnson family, e.g., Glenda, Randale, LaGrand, etc.** The United States has not currently identified any members of the Johnson family that it may rely upon in this case. The United States will disclose the name and contact information for members of the Johnson family it may rely upon at a later date. Members of the Johnson family are likely to have discoverable information regarding the claims and defenses in this case, including the structure and technology of the solar energy scheme, statements made by defendants with respect to the solar energy scheme (including about the technology, structure, marketing, revenues, and tax implications), and information regarding the disgorgement claim, including the amount of gross receipts defendants have received from the solar energy scheme.

15. **Advisors of Customers, to include attorneys, Certified Public Accountants (CPAs), or other tax preparers.** The United States currently does not know the identities of the advisors used by the defendants' customers. The United States may rely on information from any individual who is identified as a customer's advisor through discovery in this case. The United States anticipates that these advisors likely have discoverable information that will relate to the solar energy tax scheme, both with respect to claims as to statements made by the defendants and also potentially with respect to how customers claimed items relating to the solar energy scheme on their tax returns. To date, the United States has identified the following advisors used by customers that it may rely upon. The contact information is updated to the best of the United States' information and knowledge.
 - a. **Kenneth Alexander, Wizard Business Center**, 817 Abbiegail Drive, Tallahassee, FL 32303, 805-531,0001
 - b. **Bryan Bolander, VanTienderen, Carter & Bolander, P.C.**, 6802 South 1300 East, Salt Lake City 84121, 801-561-8685
 - c. **John Howell, Howell Tax Service**, 4708 K Mart Dr., Ste B, Wichita Falls, TX 76308, 940-766-0981
 - d. **Richard Jameson, Northstar Tax Services**, 784 S. River Road #348, St. George, UT 84790, 435-669-9225

16. **Advisors used by defendants, to include attorneys, CPAs, accountants, bookkeepers, or other advisors with respect to financial transactions or tax implications of the solar energy scheme.** The United States currently does not know the identities of all the advisors used by the defendants. The United States may rely on information from any individual who is identified as an advisor used by any defendant with respect to the solar energy scheme through discovery in this case. The United States anticipates that these advisors likely have discoverable information relating to defendants' affirmative defense of reliance on advice of professionals. The United States anticipates that these advisors will also likely have discoverable

information relating to the other claims and defenses in this case, including the structure and technology of the solar energy scheme, statements made by defendants to such advisor representing the structure, technology, marketing, revenues, or other aspect of the solar energy scheme, statements made by defendants to their customers, sponsors, distributors, or in marketing the solar energy scheme to the public, and information regarding the disgorgement claim including the financial records of defendants, revenues generated from the scheme by any defendant, and information relating to any defendant's books and records and tax returns.

17. **Millard County Officials**. The United States currently does not know the identities of Millard County officials that it may rely upon in this case. The United States anticipates that Millard County officials likely have discoverable information regarding defendants' operations in Millard County and defendants' compliance with applicable local laws and regulations with respect to the solar energy scheme and any necessary licenses and permits. The United States will disclose the names and contact information for any Millard County official it may rely upon at a later date.
18. **Utility Company Employees or Agents**. The United States currently does not know the identities of the utility company employees or agents that it may rely upon in this case. The United States anticipates that utility company employees or agents likely have discoverable information regarding defendants' operations in Utah, any end product produced by defendants' solar energy scheme (including electricity and/or heat), and defendants' connection to the grid, if any, with respect to defendants' solar energy scheme. The utility company employees or agents may also have discoverable information regarding applicable laws and regulations that may apply to defendants' solar energy scheme and any agreements, applications, or contracts defendants have for production. The United States will disclose the names and contact information for any utility company employees or agents it may rely upon at a later date.
19. **A representative of the Internal Revenue Service** may be needed to authenticate IRS records and documents regarding the claims and defenses in this case or may be needed as a summary witness to identify the extent that the defendants' conduct has harmed the Government.

B. A copy – or a description by category and location – of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment.

1. Documents produced with these initial disclosures, US000001 through US004267.
2. Videos produced with these initial disclosures.

3. Federal income returns and related schedules (including IRS Forms 1040, 1040X, or applications for tentative refund, Forms 1045) for customers of any defendant for tax years in which a customer claimed any item on such return or form relating to the solar energy scheme. The United States does not believe it has identified all of defendants' customers
4. Statutory Notices of Deficiency for customers of any defendants which include adjustments relating to the solar energy scheme. The United States does not believe it has identified all of defendants' customers and may not have Statutory Notices of Deficiency for every customer because the IRS has not examined all of the defendants customers' tax returns on which customers claimed improper tax benefits relating to the solar energy scheme
5. Defendants' statements regarding the solar energy scheme (including statements about the technology, structure, and/or tax implications) that customers used to understate their tax liability or support their claims to tax benefits. Customers may have included such statements in correspondence to the IRS including in letters requesting review by IRS Appeals or responses to information document requests. To the extent not otherwise produced in Category 1, above, the United States may rely upon additional documents reflecting the defendants' statements, which will be produced at a later date.
6. Bank statements, canceled checks and other proof of payment to defendants for participation in the solar energy scheme. To the extent that the United States identifies these documents and may rely upon them, the United States will produce them.

C. A computation of each category of damages claimed by the disclosing party – who must also make available for inspection and copying as under Rule 34 the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered.

The United States seeks disgorgement of the proceeds that all defendants received for the gross receipts (the amount of which is to be determined by the Court) that they received from any source as a result of their conduct in furtherance of the abusive solar energy scheme described in the complaint, together with prejudgment interest thereon. The amount to be disgorged will be based on income information available to the IRS, income information in the possession of all defendants, and the financial records and accounts of all defendants and any

business or agent that any defendant used as a conduit to collect, transfer, or store any funds relating to the abusive solar energy scheme described in the complaint.

According to the information the United States has obtained to date from the IRS, Shepard earned more than \$170,000 from 2010 through 2013 due to activities related to promoting the scheme. Johnson claims to have earned nearly \$500,000 from activities related to the scheme in tax years 2012 and 2013 alone. Freeborn has made more than \$100,000 from 2011 through 2013 for his activities related to the abusive tax scheme. The United States believes that its information on disgorgement and gross receipts that each defendant received from the solar energy scheme is incomplete at this time and will be obtained from defendants and third parties during the pendency of this case. The United States expects the disgorgement calculation to increase as additional information is produced with respect to the gross receipts each defendant received relating to the abusive tax scheme.

D. For inspection and copying as under Rule 34, any insurance agreement under which and insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.

Insurance agreements are not applicable to the United States' claims.

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Dated: April 22, 2016

CAROLINE D. CIRAOLO
Acting Assistant Attorney General
Tax Division

/s/ Erin R. Hines

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CERTIFICATE OF SERVICE

I hereby certify that on April 22, 2016, the foregoing document was sent via email to the following and a copy was sent via FedEx with the accompanying documents to the following:

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/s/ Erin R. Hines

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