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

UNITED STATES OF AMERICA,

Plaintiff,

v.

RAPOWER-3, LLC; INTERNATIONAL
AUTOMATED SYSTEMS, INC.;
LTB1, LLC; R. GREGORY SHEPARD;
and NELDON JOHNSON,

Defendants.

**ORDER IN RE: CIVIL CONTEMPT
OF R. GREGORY SHEPARD**

Case No. 2:15-cv-00828-DN

District Judge David Nuffer

Plaintiff United States of America (the “Government”) filed a Motion for Order to Show Cause Why R. Gregory Shepard Should Not Be Held in Civil Contempt of Court (the “Motion”).¹ Based on the Motion, Defendant R. Gregory Shepard’s response,² and the parties’ oral arguments, testimony, and admissions at the hearing on Thursday, November 8, 2018, the following findings are entered.

1. On August 22, 2018, an order was entered freezing all assets of Shepard, RaPower-3 LLC, Neldon Johnson, and International Automated Systems Inc., and enjoining the transfer, liquidation, withdrawal, or disposal of any of their assets.³

2. On September 27, 2018, with full knowledge of the asset-freeze order, Shepard liquidated \$27,126.05 (the “Funds”) from an annuity contract he had with AXA Equitable Retirement Service Solutions.

¹ [Docket no. 483](#), filed October 25, 2018.

² Defendant R. Gregory Shepard’s Response to Order to Show Cause, [docket no. 494](#), filed November 2, 2018.

³ Memorandum Decision and Order Freezing Assets and to Appoint a Receiver, at 26-28, [docket no. 444](#), filed August 22, 2018.

3. On September 28, 2018, Shepard filed a motion to lift the asset-freeze order but did not disclose that he had already liquidated the Funds.⁴ After the Government opposed the motion and requested an accounting, Shepard withdrew it.⁵

4. Shepard admits having knowingly liquidated and spent the Funds in violation of the asset-freeze order.

The Government has satisfied its burden of proving Shepard's contempt by clear and convincing evidence. As a result of his knowing disobedience to the asset-freeze order, Shepard is guilty of civil contempt.

ORDER

THEREFORE, IT IS HEREBY ORDERED that the Motion⁶ is GRANTED.

IT IS FURTHER HEREBY ORDERED as follows:

1. Shepard shall pay all of the Funds to the Receiver in this case on or before 4:00 p.m. (MST) on Friday, November 30, 2018, in funds separate from property belonging to the Receiver or the receivership estate.

2. All persons and entities that benefited from payments made with the Funds are jointly and severally liable with Shepard for repayment of the Funds to the extent of the benefit each received.

3. By no later than 12:00 p.m. (MST) on Tuesday, November 13, 2018, Shepard shall file:

a. a complete accounting of the Funds and all accounts (beginning

⁴ Motion to Lift Freeze Order As to Certain Assets, [docket no. 462](#), filed September 28, 2018.

⁵ Notice of Withdrawal of Defendant Greg Shepard's Motion to Lift Freeze Order As to Certain Assets, [docket no. 469](#), filed October 8, 2018.

⁶ [Docket no. 483](#), filed October 25, 2018.

September 1, 2018, and ending at 12:00 p.m. (MST) on November 12, 2018 (the “Subject Period”)) that received or disbursed any of the Funds—whether as a direct or initial deposit or as a later transfer, disbursement, or payment—including but not limited to all records (including deposit or disbursement of payment records) of all accounts, persons, and entities that received, controlled, possessed, processed, disbursed, or benefited in any way from any portion of the Funds;

b. a complete accounting of all income received by or for the benefit of Shepard, his wife, his mother-in-law, his children, his children-in-law, or any other person who resided in or at Shepard’s home at any time during the Subject Period;

c. a complete accounting of all disbursements made to or for the benefit of any person residing in or at Shepard’s home at any time during the Subject Period, including but not limited to himself, his wife, his mother-in-law, his children, or children-in-law; and

d. the name, address, telephone number, e-mail address, and social security number or EIN of:

i. each person or entity referred to in subparagraphs (a), (b), and (c) above;

ii. each person who is an owner or obligor on, or beneficiary of, any account referred to in subparagraphs (a), (b), and (c) above; and

iii. each person who resided in or at Shepard’s home at any time during the Subject Period.

4. The accountings referenced in Paragraph 3 of this Order must include as exhibits:

a. all documents, communications, and records from or to AXA Equitable Retirement Service Solutions concerning or related to the Funds, including but not limited to e-mails, forms, deposit slips, correspondence, receipts, and disbursement records;

b. all records evidencing payments made with or from any portion of the Funds; and

c. full and complete statements covering the Subject Period for each account in which any portion of the Funds was deposited, transferred, withdrawn, disbursed, paid, or processed.

5. Shepard shall redact the accountings, information, and records referenced in Paragraphs 3 and 4 of this Order as required by applicable laws and rules before filing, but shall simultaneously e-mail unredacted copies of the same to the Receiver, the Government, and utdecf_nuffer@utd.uscourts.gov.

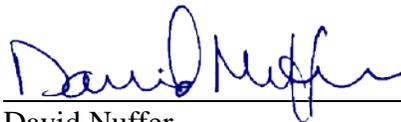
6. Shepard is personally liable for the Government's reasonable attorney's fees and costs incurred in connection with the Motion and enforcement of this Order. The Government shall file a motion for attorney's fees and costs by no later than December 7, 2018. The amount of the attorney's fees and costs awarded to the Government shall be added to the balance of any other payment owed in accordance with this Order.

7. Shepard, his wife, and son Matthew Shepard shall each attend in person the continuation of this hearing that is currently scheduled for 9:00 a.m. (MST) on Thursday, November 15, 2018.

8. Shepard may purge his contempt by complying with this Order. If Shepard fails to comply with this Order, additional remedies may be imposed.

Signed November 9, 2018.

BY THE COURT:

A handwritten signature in blue ink, appearing to read "David Nuffer", is written over a horizontal line.

David Nuffer
United States District Judge