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

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| <p>UNITED STATES OF AMERICA,</p> <p>Plaintiff,</p> <p>vs.</p> <p>RAPOWER-3, LLC, INTERNATIONAL AUTOMATED SYSTEMS, INC., LTB1, LLC, R. GREGORY SHEPARD, NELDON JOHNSON, and ROGER FREEBORN,</p> <p>Defendants.</p> | <p>Civil No. 2:15-cv-00828-DN-EJF</p> <p>NELDON JOHNSON'S PRO SE MOTION FOR PROTECTIVE ORDER</p> <p>Judge David Nuffer Magistrate Judge Evelyn J. Furse</p> |
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Pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, Neldon Johnson, pro se, asks this Court for protection from the oppressive and overly burdensome demands for production of documents and things from the receiver, Mr. Wayne Klein.

Attached as Exhibit 1 is a list of documents and things that the receiver, Mr. Klein, has asked that I provide before February 8, 2018. I was only served with a copy of the demand for documents on January 29, 2019. Given that there 50 numbered requests and many (if not all) requests require multiple responses, the actual number of requests is more than a hundred and could be as many as three hundred separate demands for documents.

Given the incredibly short period of time to respond to the demand for documents and the excessive nature of the demand in required time to find all the information, organize the information, copy or provide the information, there is no way that I can comply with the request.

Furthermore, I do not have help in gathering the information demanded. I cannot pay attorneys or accountants or others to help me look for, gather or produce the information, so I am left to do it alone and with the help of my wife and family. It is simply too overwhelming of a burden and impossible for me to accomplish.

For example, in request number 11, the receiver asks for “Documents showing **all accounts** you have had, or over which you exercised signature authority or any kind of control at financial institutions **since 2000.**” That is more than 18 years worth of banking account information. It is nearly an impossible task. But worse still, Mr. Klein makes similar demands 17 more times (numbers: 12, 13, 17, 18, 19, 20, 21, 22, 25, 27, 28, 31, 32, 43, 46, 49, and 50). I don’t have these documents. I’m going to have to do a lot of searching to see if any of that can be located or obtained from banks. I don’t think I will have any answer for most of the requests by the deadline, and may not be able to ever obtain copies of these materials.

Other requests demand documents from as many as 19 separate business entities (the receiver gives a definition of “receivership entities” “subsidiaries and affiliates” and “related entities”). For example, in request number 1, the receiver asks for “documents evidencing your role as an officer, director, member, manager, owner, employee, registered agent, or similar role for: (a) any receivership entities; (b) any of the subsidiaries and affiliates; (c) any of the related entities.” That is a significant task

for just one of the business entities, and he wants it for 19. But even more burdensome, Mr. Klein asks for the business entity information on the same 19 business entities 26 more times (numbers: 2, 4, 5, 6, 7, 8, 13, 14, 23, 24, 25, 36, 31, 33, 34, 35, 36, 37, 38, 39, 40, 41, 43, 45, 49, and 50).

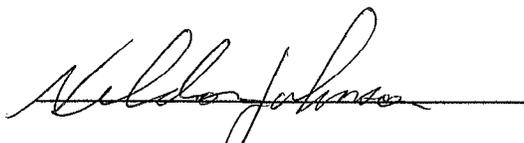
The subpoena issued to me is excessive in scope. I should not be subjected to the annoyance of providing information the receiver already has (banking and corporate entity information) which I understand he should have already received from the United States or could get from the original sources by subpoena. It is oppressive, unduly burdensome and the expense would be overwhelming unless the requests are revised as to both scope and span of years.

Under Rule 26(c), I believe the requested discovery from the receiver should be limited to the past 3 years (or at most 5 years). They should be edited to limit the requests to documents the receiver does not already have and that he is simply fishing for.

Despite this request for a protective order, almost all (if not all) of the information I have was disclosed or obtained during discovery or at trial of the case. I have asked for a copy of that material to be copied and I am producing that along with this motion. If I can ever locate more I will provide it. But that does not make the subpoena reasonable.

CONCLUSION

Given the enormous task of complying with the subpoena asking for hundreds of responses, this motion for protective order should be granted and limit the scope and span of the demands for documents from the receiver to me.



Nelder Johnson

Pro Se Defendant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **NELDON JOHNSON'S PRO SE MOTION TO RECUSE HONORABLE JUDGE DAVID NUFFER** was sent to counsel for the United States in the manner described below.

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