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

<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, and NELDON JOHNSON,</p> <p>Defendants.</p>	<p>Civil No. 2:15-cv-00828-DN-EJF</p> <p>OBJECTION TO PLAINTIFF'S MOTION FOR PRODUCTION OF BANK AND RETIREMENT ACCOUNT RECORDS OF LAGRAND JOHNSON AND RANDALE JOHNSON AND FOR ADDITIONAL RELIEF (ECF 876)</p> <p>EVIDENTIARY HEARING REQUESTED</p> <p>Judge David Nuffer</p>
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COME NOW LaGrand Johnson and Randale Johnson and object to the Plaintiff's Motion to require the production of bank and retirement account records in this proceeding [ECF Doc. 876] on grounds that there is no legal or justifiable basis under which to require the production of the Johnsons' banking or other financial records.

There are at least five reasons why the government's motion should be denied, they are as follows:

1. This case is closed. As noted in every filing and every notice that is issued by this court, the fact should not be overlooked that this case was closed on October 4, 2018. The government should not be pursuing claims against non-parties in this proceeding. There is no justifiable reason for the government to be conducting discovery into LaGrand Johnson's finances or Randale Johnson's finances in this case.
2. The discovery of the Johnson's banking and financial records is not relevant to the claims of contempt. The government's claims against the Johnson's regarding contempt has nothing to do with their personal finances. This motion is a fishing expedition to assist the Receiver in his separate pending claims brought in separate litigation filed by him against the Johnsons and does not further any lawful purpose in this court proceeding.
3. The discovery of the Johnsons banking and financial records is not required under ¶24 of the Corrected Receivership Order. The Johnson's personal financial records are not records "of or relating to" the Receivership Defendants or any Affiliated Entity. There is nothing in the Corrected Receivership Order that obligates LaGrand Johnson and Randale Johnson to produce their personal financial records. Therefore, there is no basis to compel them to be produced in this proceeding.
4. The discovery of the Johnsons banking and financial records should only be pursued in the lawsuits that the Receiver has filed against them. The government should not be allowed to bypass the discovery rules and deadlines in the pending collection cases. The double-phase attack on the Johnsons to respond to the demands of discovery in both cases is unduly burdensome and is unlawful claim splitting. The collection cases include the demand to account for the October transfers of \$200,000. The

appropriateness of those transactions should be litigated in that proceeding, not in this case. Furthermore, the Receiver has already issued subpoenas to LaGrand Johnson's banks. On May 7, 2019, the Receiver issues subpoenas to Bank of American Fork, America First Credit Union and Citibank to obtain banking and financial records from January 1, 2012 to the present. This demand on the Johnsons is unnecessary harassment that should not be allowed.

5. Most importantly, the discovery of the Johnsons banking and financial records should not be ordered at this time because the Johnsons do not have the records. The motion requests records dating back to 2010. Neither LaGrand nor Randale Johnson have banking records in their possession going back that far (and there has been given no justification for why the government would be entitled to records that old). Furthermore, with the current Covid-19 crisis, the Johnsons are not able to request the records or go to their banks and get the records.

The government cannot show a justification for why the Johnsons should be required to undertake the time, effort and expenses of gathering their banking and financial records in this case. The claims against LaGrand and Randale in this case do not justify the excessively burdensome obligation of obtaining ten-years' worth of banking records.

For the reasons stated herein, the motion to require the production of LaGrand Johnson's and Randale Johnson's personal banking and retirement account records should be denied.

DATED this 31st day of March, 2020.

NELSON SNUFFER DAHLE & POULSEN

/s/ Steven R. Paul
Denver C. Snuffer, Jr.
Daniel B. Garriott
Steven R. Paul

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed using the court's CM/ECF filing system and that system sent notice of filing to all counsel and parties of record.

In addition, the foregoing was mailed or emailed as indicated to the following who are not registered with CM/ECF.

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/s/ Steven R. Paul
*Attorneys for Glenda Johnson, LaGrand
Johnson and Randale Johnson*