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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

UNITED STATES OF AMERICA,

Plaintiff,

vs.

NELDON JOHNSON, and GLENDA
JOHNSON,

Defendants.

INDICTMENT

VIOS 18 U.S.C. § 401(3) – Contempt

Case: 2:21-cr-00513
Assigned To : Parrish, Jill N.
Assign. Date : 12/7/2021

The Grand Jury Charges:

BACKGROUND

At all times relevant to this Indictment:

1. Defendants NELDON JOHNSON and GLENDA JOHNSON are residents of the state of Utah.
2. NELDON JOHNSON owned and managed International Automated Systems, Inc (IAS), RaPower-3 LLC (RaPower), and LTB1, LLC (LTB1).
3. GLENDA JOHNSON was an employee of IAS, RaPower, and LTB1. She and NELDON JOHNSON are married.

4. In November 2015, the United States Department of Justice Tax Division (DOJTD) filed suit against NELDON JOHNSON, IAS, RaPower, and LTB1, and others (collectively the “Receivership Defendants”) in case no. 2:15-cv-00828-DN, *United States v. RaPower-3 et al.*, in the United States District Court, District of Utah. The civil lawsuit alleged that the Receivership Defendants had engaged in tax fraud.

5. Following a bench trial, in June 2018, United States District Court Judge David Nuffer concluded that the Receivership Defendants had perpetrated a fraudulent solar energy scheme for more than ten years. That scheme resulted in a “massive” tax fraud by which the Receivership Defendants unlawfully received more than \$50 million dollars.

6. The Court thereafter ordered disgorgement of more than \$50 million dollars from the Receivership Defendants. To effectuate its ruling, the Court issued several additional orders.

The Asset Freeze Order

7. On August 22, 2018, the Court entered an order (the “Asset Freeze Order”) freezing all assets of the Receivership Defendants (“Receivership Property”) and finding it necessary to appoint a Receiver.

8. The Asset Freeze Order required the Receivership Defendants to preserve and turn over “forthwith” all paper and electronic information concerning Receivership Property:

3. The Receivership Defendants are directed to preserve and turn over to the Receiver forthwith all paper and electronic information of, and/or relating to, the Receivership Property; such information shall include but not be limited to books,

records, documents, accounts and all other instruments and papers. [Asset Freeze Order ¶3, p.23.]

9. The Asset Freeze Order also enjoined NELDON JOHNSON and others, including GLENDA JOHNSON, from interfering with the Receiver in the performance of his duties:

4. The Receivership Defendants and all persons receiving notice of this Order by personal service, facsimile or otherwise, are hereby restrained and enjoined from directly or indirectly taking any action or causing any action to be taken, without the express written agreement of the Receiver which would interfere with or prevent the Receiver from performing his/her duties. [Asset Freeze Order ¶4, p.23.]

The Corrected Receivership Order

10. On November 1, 2018, the Court issued the Corrected Receivership Order (CRO) appointing the Receiver.

Control of Assets of Subsidiaries and Affiliated Entities

11. In the CRO, the Court again took “exclusive jurisdiction and possession of all assets, of whatever kind and wherever situated” of the Receivership Defendants. [CRO ¶2.] It further claimed as Receivership Property any assets “proven to be proceeds of activities of Receivership Defendants” that were in the possession of “any and all subsidiaries and affiliated entities.” [CRO ¶2, p.2.]

12. These entities included the N.P. Johnson Family Limited Partnership (NPJFLP). [CRO ¶2g, p.2.]

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Extending the Asset Freeze Order to Subsidiaries and Affiliated Entities

13. The CRO extended the Asset Freeze Order, continuing the “freeze” on Receivership Property:

Except as otherwise provided herein, all assets of the Receivership Defendants are frozen until further order of this Court (“Receivership Property”). Accordingly, all person all persons and entities with direct or indirect control over any Receivership Property, other than the Receiver, are hereby restrained and enjoined from directly or indirectly transferring, setting off, receiving, changing, selling, pledging, assigning, liquidating, or otherwise disposing of or withdrawing such Receivership Property. [CRO ¶4, p.3.]

The Court further specified this freeze extended to “subsidiaries and affiliated entities of the Receivership Defendants.” [CRO ¶5, p.3-4.]

Removal of NELDON JOHNSON, GLENDA JOHNSON, and Others

14. The CRO also removed NELDON JOHNSON and all others, including GLENDA JOHNSON, from their management of, and positions in, IAS, RaPower, and LTBI:

9. The directors, officers, managers, employees, trustees, investment advisors, accountants, attorneys, and other agents of RaPower-3 LLC, IAS, and LTB1 LLC (collectively, the “Entity Receivership Defendants”) are hereby dismissed, and the powers of any general partners, directors, or managers are hereby suspended. Such persons shall have no authority with respect to the Entity Receivership Defendants’ operations or assets, except to the extent as may hereafter be expressly granted by the Receiver. [CRO ¶9, p.5-6.]

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Requirement to Turn Over Documents and Information to the Receiver

15. Additionally, the CRO required the Receivership Defendants, their employees, and anyone else receiving notice of the CRO, to turn over to the Receiver all “paper and electronic information” on the Receivership Property:

14. The Receivership Defendants, as well as their past and present officers, directors, agents, managers, servants, employees, attorneys, accountants, general and limited partners, trustees, and any persons acting for or on behalf of the Receivership Defendants, and any persons receiving notice of this Order by personal service, electronic transmission, or otherwise, are directed to preserve and turn over to the Receiver forthwith all paper and electronic information of, or relating to, the Receivership Property. The Receiver is authorized to request a modification of this provision or the previously issued Preservation Order. [CRO ¶14, p.10.]

16. The CRO further ordered NELDON JOHNSON and others, including GLENDA JOHNSON, to provide the Receiver with all books and records of the Receivership Defendants:

17. The Receivership Defendants, as well as their agents, servants, employees, attorneys, any persons acting for or on behalf of the Receivership Defendants, and any persons receiving notice of this Order by personal service, electronic transmission, or otherwise, having possession of the property, business, books, records, accounts, or assets of the Receivership Defendants, are hereby ordered to deliver the same to the Receiver or his agents or employees. [CRO ¶17, p.11.]

Receiver to Take Possession of All Real Property

18. The CRO authorized the Receiver to “take immediate possession of all real property of the Receivership Defendants”. [CRO ¶20, p.12.] This included real property for which the Receivership Defendants had a “beneficial interest even if titled in the name of

another, such as a spouse or affiliated entity, such as a family limited partnership.” [CRO ¶20, p.12.] The CRO then specified 31 parcels of real property included in the Court’s order. [CRO ¶20a-ee, p.12-19.] These included 24 parcels of real property in Millard County, Utah, including one parcel owned by IAS with assessor parcel number HD-4658-1 (“Tower Property”) [CRO ¶20w, p.17], as well as a parcel in Payson, Utah [CRO ¶20z, p.18], and two parcels in Howard County, Texas. [CRO ¶20cc-dd, p.19.]

Required Cooperation with the Receiver

19. The CRO also required NELDON JOHNSON and others, including GLENDA JOHNSON, to cooperate with and assist the Receiver in the performance of his duties:

23. The Receivership Defendants, their subsidiaries, any affiliated entities, and any affiliated individuals (including spouses and other family members) shall cooperate with and assist the Receiver in the performance of his duties and obligations. As such, they must respond promptly and truthfully to all requests for information and documents from the Receiver. [CRO ¶23, p.20.]

Preservation and Turn Over to the Receiver of Paper and Electronic Information

20. The CRO further required NELDON JOHNSON and others, including GLENDA JOHNSON, to preserve and turn over to the Receiver “all paper and electronic information of, or relating to, the Receivership Defendants or Receivership Property”:

24. The Receivership Defendants and the past and present officers, directors, agents, managers, general and limited partners, trustees, attorneys, transfer agents, website and electronic mail administrators, database administrators, accountants, and employees of the Entity Receivership Defendants, as well as those acting in their place, are hereby ordered and directed to preserve and turn over to the Receiver

forthwith all paper and electronic information of, or relating to, the Receivership Defendants or Receivership Property; such information shall include, but is not limited to: books, records, documents, accounts, stock certificates, intellectual property records, evidence of intellectual property rights, computer and electronic records, and all other instruments and papers. If these documents and records are no longer within their control, they must provide information to the Receiver identifying the records, the persons in control of the records, and efforts undertaken to recover the records. [CRO ¶24, p.20.]

Prohibiting Interference with the Receiver

21. The CRO also prohibited NELDON JOHNSON and others, including GLENDA JOHNSON, from interfering with the Receiver in the performance of his duties. It specifically prohibited “creating or enforcing a lien upon any Receivership Property,” as well as “concealing, destroying, or altering records or information”:

35. The Receivership Defendants and all persons receiving notice of this Order by personal service, facsimile, electronic transmission, or otherwise, are hereby restrained and enjoined from directly or indirectly taking any action or causing any action to be taken, without the express written agreement of the Receiver, which would interfere with or prevent the Receiver from performing his duties, including conduct that would or might:

a. Interfere with the Receiver’s efforts to take control, possession, or management of any Receivership Property. Such prohibited actions include, but are not limited to, using self-help or executing or issuing (or causing the execution or issuance of) any court attachment, subpoena, replevin, execution, or other process for the purpose of impounding or taking possession of or interfering with or creating or enforcing a lien upon any Receivership Property.

b. Hinder, obstruct, or otherwise interfere with the Receiver in the performance of his duties. Such prohibited actions include, but are not limited to, concealing, destroying or altering records or information. [CRO ¶35a-b, p.26.]

The Affiliates Order

22. On May 3, 2019, the Court issued a further order (the “Affiliates Order”) expressly extending the receivership to affiliated entities of the Receivership Defendants, including U-Check, Inc. (U-Check), NPJFLP, and others (collectively, the “Affiliated Entities”).

Required Cooperation with the Receiver

23. The Affiliates Order required NELDON JOHNSON and others, including GLENDA JOHNSON, to “cooperate with and assist the Receiver” in his duties related to the Affiliated Entities:

8. The Receivership Defendants, their subsidiaries, any affiliated entities, any affiliated individuals (including spouses and other family members), and the past and present officers, directors, agents, managers, servants, employees, attorneys, accountants, general and limited partners, trustees, and any person acting for or on behalf of the Affiliated Entities, shall cooperate with and assist the Receiver in the performance of his duties and obligations related to the Affiliated Entities to the same extent as required in the Corrected Receivership Order with respect to the Receivership Defendants. [Affiliates Order ¶8, p.7-8.]

Property and Records of Affiliated Entities

24. The Affiliates Order also extended the obligation of NELDON JOHNSON and others, including GLENDA JOHNSON, to turn over to the Receiver “any property or records of Affiliated Entities”:

9. All persons having control, custody, or possession of any property or records of Affiliated Entities are hereby ordered to turn over such property or records to the Receiver to the same

extent required by the Corrected Receivership Order with respect to Receivership Defendants. [Affiliates Order ¶9, p.8.]

Civil Contempt Order

25. After NELDON JOHNSON, GLENDA JOHNSON, and others failed to comply with their obligations under the Court’s prior orders, on June 25, 2019, the Court issued an order holding them in civil contempt (“Civil Contempt Order”). As part of that order, the Court reiterated the requirement that NELDON JOHNSON comply with the Court’s prior orders regarding document production:

4. Johnson shall produce all documents required by paragraph 24 of the Corrected Receivership Order and by paragraph 9, page 8, of the Affiliates Order on a rolling basis beginning June 21, 2019, and ending no later than July 8, 2019. [Civil Contempt Order ¶4, p.25-26.]

If NELDON JOHNSON no longer possessed or controlled responsive documents, the Court outlined the procedure for submitting a declaration stating as much. [*Id.*]

26. The Court also reiterated the requirement that GLENDA JOHNSON comply with its prior orders regarding document production:

7. Glenda Johnson shall produce all documents required by paragraph 24 of the Corrected Receivership Order and by paragraph 9, page 8, of the Affiliates Order on a rolling basis beginning June 21, 2019, and ending no later than July 8, 2019. [Civil Contempt Order ¶7, p.27.]

If GLENDA JOHNSON no longer possessed or controlled responsive documents, the Court likewise outlined the procedure for submitting a declaration stating as much. [*Id.*]

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Discarding of Documents

27. The Court's orders notwithstanding, on or about September 2, 2019, at a waste transfer station in Oasis, Utah, NELDON JOHNSON and GLENDA JOHNSON discarded into a dumpster several trash bags filled with documents. These documents included original financial records of IAS, original IAS board meeting minutes, personal financial records for NELDON JOHNSON, and original financial records for U-Check.

28. These records had not previously been provided to the Receiver.

29. After discarding the bags of documents, NELDON JOHNSON and GLENDA JOHNSON drove away.

Liens on Receivership Property

30. Pursuant to his authority from the Court, the Receiver sold the Tower Property at public auction on July 18, 2019. The sale closed on August 5, 2019, and the sale order expressly provided: "The sale of the Property [is] free and clear of interests. . . ."

31. On August 15, 2019, without the Receiver's permission, GLENDA JOHNSON assisted in recording a lien in the amount of \$9 million against the Tower Property ("Tower Property Lien"). The CRO had specified that the Tower Property was under the exclusive jurisdiction of the Receiver.

32. On December 19, 2019, without the Receiver's permission, GLENDA JOHNSON assisted in recording a lien in the amount of \$30 million against 15 properties titled in her name in Millard County, Utah ("Millard County Lien"). The CRO had specified that each of these properties were under the exclusive jurisdiction of the Receiver.

33. Further on December 19, 2019, without the Receiver's permission, GLENDA JOHNSON assisted in recording a lien in the amount of \$2 million against a property in Payson, Utah titled in her name ("Payson Lien"). The CRO had also identified this property as being then under the exclusive jurisdiction of the Receiver.

34. On January 14, 2020, without the Receiver's permission, GLENDA JOHNSON assisted in recording a \$10 million lien against properties in Howard County, Texas. These properties were titled in the name of the NPJFLP ("Texas Lien"). The CRO had also identified these properties as being under the exclusive jurisdiction of the Receiver.

COUNT I
18 U.S.C. § 401(3)
[Contempt]

35. The Grand Jury realleges and incorporates by reference the factual allegations in paragraphs 1-34 above.

36. On or about September 2, 2019, in the District of Utah,
NELDON JOHNSON and GLENDA JOHNSON,
defendants herein, did willfully and knowingly disobey and resist one or more lawful orders, decrees, and commands of the Honorable David Nuffer of the United States District Court for the District of Utah of which they had actual knowledge, namely, the August 2, 2018, Asset Freeze Order, the November 1, 2018, Corrected Receivership Order, the May 3, 2019, Affiliates Order, and the June 25, 2019, Civil Contempt Order in case 2:15-cv-00828-DN.

37. Specifically, NELDON JOHNSON and GLENDA JOHNSON directly and indirectly, individually and in concert, violated one or more of these orders by discarding,

and attempting to conceal and destroy, documents they were required to preserve and produce to the Receiver; in violation of the Court's orders and Title 18, United States Code, Section 401(3) and Section 2.

COUNT II
18 U.S.C. § 401(3)
[Contempt]

38. The Grand Jury realleges and incorporates by reference the factual allegations in paragraphs 1-34 above.

39. On or about August 15, 2019, in the District of Utah,

GLEND A JOHNSON,

defendant herein, did willfully and knowingly disobey and resist one or more lawful orders, decrees, and commands of the Honorable David Nuffer of the United States District Court for the District of Utah of which she had actual knowledge, namely, the November 1, 2018, Corrected Receivership Order in case 2:15-cv-00828-DN.

40. Specifically, GLEND A JOHNSON directly and indirectly violated one or more of these orders by recording the Tower Property Lien; in violation of the Court's orders and Title 18, United States Code, Section 401(3) and Section 2.

COUNT III
18 U.S.C. § 401(3)
[Contempt]

41. The Grand Jury realleges and incorporates by reference the factual allegations in paragraphs 1-34 above.

42. On or about December 19, 2019, in the District of Utah,

GLEENDA JOHNSON,

defendant herein, did willfully and knowingly disobey and resist one or more lawful orders, decrees, and commands of the Honorable David Nuffer of the United States District Court for the District of Utah of which she had actual knowledge, namely, the November 1, 2018, Corrected Receivership Order, in the case of 2:15-cv-00828-DN.

43. Specifically, GLEENDA JOHNSON directly and indirectly violated one or more of these orders by assisting in recording the Millard County Lien; in violation of the Court's orders and Title 18, United States Code, Section 401(3) and Section 2.

COUNT IV
18 U.S.C. § 401(3)
[Contempt]

44. The Grand Jury realleges and incorporates by reference the factual allegations in paragraphs 1-34 above.

45. On or about December 19, 2019, in the District of Utah,

GLEENDA JOHNSON,

defendant herein, did willfully and knowingly disobey and resist one or more lawful orders, decrees, and commands of the Honorable David Nuffer of the United States District Court for the District of Utah of which she had actual knowledge, namely, the November 1, 2018, Corrected Receivership Order, in the case of 2:15-cv-00828-DN.

46. Specifically, GLEENDA JOHNSON directly and indirectly violated one or more of these orders by assisting in recording the Payson Lien; in violation of the Court's orders and Title 18, United States Code, Section 401(3) and Section 2.

COUNT V
18 U.S.C. § 401(3)
[Contempt]

47. The Grand Jury realleges and incorporates by reference the factual allegations in paragraphs 1-34 above.

48. On or about January 14, 2020, in the District of Utah,

GLEND A JOHNSON,

defendant herein, did willfully and knowingly disobey and resist one or more lawful orders, decrees, and commands of the Honorable David Nuffer of the United States District Court for the District of Utah of which she had actual knowledge, namely, the November 1, 2018, Corrected Receivership Order, and the May 3, 2019, Affiliates Order in the case of 2:15-cv-00828-DN.

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49. Specifically, GLENDA JOHNSON directly and indirectly violated one or more of these orders by assisting in recording the Texas Lien; in violation of the Court's orders and Title 18, United States Code, Section 401(3) and Section 2.

A TRUE BILL:



FOREPERSON OF GRAND JURY

ANDREA T. MARTINEZ
Acting United States Attorney



AARON B. CLARK
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