

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

UNITED STATES OF AMERICA,)	7:17-mc-2
)	
Plaintiff,)	
)	
v.)	(pending in the United States District
)	Court for the District of Utah, Civil No.
)	2:15-cv-00828-DN-EJF)
RAPOWER-3, LLC, INTERNATIONAL)	
AUTOMATED SYSTEMS INC.,)	
LTB1, LLC, R. GEGORY SHEPARD,)	
NELDON JOHNSON, and)	
ROGER FREEBORN,)	
)	
Defendants.)	
_____)	

MOTION TO COMPEL THE DEPOSITION OF THIRD-PARTY JOHN HOWELL

Pursuant to Fed. R. Civ. P. 37(a)(2) and 45, the United States moves the Court to compel third-party John Howell to appear at a deposition and answer questions relevant to the claims at issue in the case of *United States v. RaPower-3, LLC, et al.*, Case No. 2:15-cv-00828-DN-EJF, currently pending in the District of Utah. In support of this motion, the United States submits its Brief in Support of its Motion to Compel the Deposition of Third-Party John Howell, with an appendix of supporting exhibits.

WHEREFORE, the United States requests that the Court enter an order requiring John Howell to attend a deposition and answer the United States' questions at the Internal Revenue Service Office, 4309 Old Jacksboro Highway, Wichita Falls, TX 76302 at a date and time to be determined by counsel for the United States.

Dated: May 5, 2017

Respectfully submitted,

JOHN R. PARKER
United States Attorney

DAVID A. HUBBERT
Acting Assistant Attorney General

/s/ Erin Healy Gallagher
ERIN HEALY GALLAGHER
DC Bar No. 985760
Email: erin.healygallagher@usdoj.gov
Telephone: (202) 353-2452
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 7238
Ben Franklin Station
Washington, D.C. 20044
FAX: (202) 514-6770
**ATTORNEY FOR THE
UNITED STATES**

CERTIFICATE OF CONFERENCE

The United States contacted counsel for Mr. Howell to confer with him and resolve the issues presented by this motion without court intervention, on March 16, 2017, March 21, 2017, and May 3, 2017. The parties were unable to reach agreement by the time this motion was filed. Therefore, the United States presumes counsel for Mr. Howell opposes this motion. If the parties are able to reach an agreement before the Court enters an order, the United States will withdraw this motion.

/s/ Erin Healy Gallagher
ERIN HEALY GALLAGHER

CERTIFICATE OF SERVICE

I hereby certify that on May 5, 2017, the foregoing document was electronically filed with the Clerk of the Court through the CM/ECF system. I sent copies of the foregoing document to the following counsel of record via U.S. Mail and electronic mail.

Justin D. Heideman
HEIDEMAN & ASSOCIATES
2696 North University Avenue, Suite 180
Provo, Utah 84604
jheideman@heidlaw.com
**ATTORNEY FOR RAPOWER-3, LLC,
INTERNATIONAL AUTOMATED SYSTEMS, INC.,
LTB1, LLC, and NELDON JOHNSON**

Donald S. Reay
REAY LAW, PLLC
43 West 9000 South, Suite B
Sandy, Utah 84070
donald@reaylaw.com
**ATTORNEY FOR R. GREGORY SHEPARD
AND ROGER FREEBORN**

John Teakell
Law Office of John R. Teakell
2911 Turtle Creek Blvd #300
Dallas, TX 75219
jteakell@teakelllaw.com
ATTORNEY FOR JOHN HOWELL

/s/ Erin Healy Gallagher
ERIN HEALY GALLAGHER