



RE: Proposed order in United States v. RaPower-3, LLC, et al., Civ. No. 15-828 after May 3 show-cause hearing

Healy Gallagher, Erin (TAX)

to:

STEVEN PAUL, dj.nuffer@utd.uscourts.gov, utdj_Nuffer@utd.uscourts.gov

05/07/2019 12:23 PM

Cc:

"wklein@kleinutah.com", "jballs@parrbrown.com", Mike Lehr,

"glendaejohnson@hotmail.com", Greg Shepard, Denver Snuffer, Dan Garriott

Hide Details

From: "Healy Gallagher, Erin (TAX)" <Erin.HealyGallagher@usdoj.gov> Sort List...

To: STEVEN PAUL <spaul@nsdplaw.com>, "dj.nuffer@utd.uscourts.gov"

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<dbgarrriott@msn.com>

History: This message has been forwarded.

2 Attachments



2019 05 07 proposed order re glenda johnson.DOCX 2019 05 06 proposed order production.docx

Dear Judge Nuffer,

After reviewing Mr. Paul's email below and my email to the Court, I realized that I mistakenly attached two versions of the same order: the order requiring production of documents and information. Please use the attachment called "2019 05 06 proposed order production" as our proposed order on that topic. It is attached again here for your reference. I agree with Mr. Paul that you did not order Mrs. Johnson to turn over the cash to the receiver or to freeze the cash, but I thought you did require that she account for the location of the cash as stated in the proposed order.

I mistakenly did *not* attach to my email yesterday a version of the stipulated order regarding Glenda Johnson's voluntary preservation of funds in two bank accounts. So I've attached here the stipulated version, signed by counsel for all necessary parties.

My apologies for any confusion.

Erin Healy Gallagher
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 Washington DC 20044
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From: STEVEN PAUL [<mailto:spaul@nsdplaw.com>]

Sent: Tuesday, May 07, 2019 11:22 AM

To: Healy Gallagher, Erin (TAX) <Erin.HealyGallagher@tax.USDOJ.gov>; dj.nuffer@utd.uscourts.gov; utdj_Nuffer@utd.uscourts.gov
Cc: wklein@kleinutah.com; jballs@parrbrown.com; Mike Lehr <mlehr@parrbrown.com>; glendaejohnson@hotmail.com; Greg Shepard <greg@rapower3.com>
Subject: Re: Proposed order in United States v. RaPower-3, LLC, et al., Civ. No. 15-828 after May 3 show-cause hearing

Judge Nuffer,

I was out of the office for most of the day yesterday and did not receive the below email until this morning. We do have an objection to the proposed order that includes, at paragraph 5, the requirement of an accounting for cash withdrawals made by Mrs. Johnson. I have reviewed my notes from your ruling and have nothing along those lines and do not recall you instructing the parties to provide an accounting of any cash withdrawals. I do recall that Ms. Healy-Gallagher asked for a freeze of those funds, which the court declined at this point in the proceedings.

Other than the objection to paragraph 5 of the proposed order (regarding cash withdrawals) we agree that the orders reflect the court's ruling on May 3.

Steven Paul

STEVEN R. PAUL
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On May 6, 2019 at 5:48 PM "Healy Gallagher, Erin (TAX)"
<Erin.HealyGallagher@usdoj.gov> wrote:

Dear Judge Nuffer,

I believe that, on Friday, you ordered that the attached proposed orders be submitted today. The Receiver agrees with the text of both. I sent them to Steven Paul around noon, Mountain time, today, but have not heard back from him with any response.

I am including the Receiver, his counsel, Mr. Paul, Neldon Johnson, and Greg Shepard on this email. Mr. Johnson and Mr. Shepard have consented to service of court-filed documents by the email addresses above.

Respectfully submitted,

Erin Healy Gallagher

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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, NELDON JOHNSON, and ROGER FREEBORN,</p> <p>Defendants.</p>	<p>Civil No. 2:15-cv-00828 DN</p> <p>STIPULATED ORDER REGARDING FUNDS HELD BY GLENDA JOHNSON</p> <p>Judge David Nuffer</p>
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Pursuant to hearings on the United States' motion for order to show cause, held in part on May 3, 2019, and the agreement reached by Glenda Johnson, the Receiver, and the United States, IT IS HEREBY ORDERED THAT:

1. Two bank accounts at Bank of American Fork (also known as Peoples' Intermountain Bank) controlled by Glenda Johnson contain funds that were transferred to those accounts from one or more bank accounts controlled by Receivership Defendants. The first account's identification number ends in 2190. The second account's identification number ends in 8749.
2. In lieu of the Court ordering that these accounts be frozen, Glenda Johnson shall preserve all funds in those accounts. She shall maintain the balance that existed in each account as of May 3, 2019.
3. Glenda Johnson shall deliver monthly account statements for each account to the Receiver no later than the fifth day of each month.
4. Glenda Johnson shall preserve the status of these account as required by this order until this Court determines whether the funds in these accounts are Receivership Property and issues an order with further instructions.
5. The law firm of Nelson Snuffer Dahle & Poulsen is directed to deliver, via e-mail or otherwise, a copy of this Order to Glenda Johnson immediately, and to file a certification with the Court noting when and how it delivered the Order.

Agreed to by:

/s/ Steven R. Paul
(e-signed by Erin Healy Gallagher with
permission from Steven Paul)
Steven R. Paul (#7423)
spaul@nsdplaw.com
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/s/ Michael S. Lehr
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Facsimile: (801) 576-1960
Attorneys for Glenda Johnson

Dated: May 7, 2019

Attorney for Court-Appointed Receiver
Wayne Klein

Dated: May 7, 2019

/s/ Erin Healy Gallagher
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**ATTORNEY FOR THE
UNITED STATES**

Dated: May 7, 2019

Dated:

BY THE COURT:

David Nuffer
United States District Judge

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

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RAPOWER-3, LLC, INTERNATIONAL
AUTOMATED SYSTEMS, INC., LTBI,
LLC, R. GREGORY SHEPARD,
NELDON JOHNSON, and ROGER
FREEBORN,

Defendants.

Civil No. 2:15-cv-00828 DN

**PROPOSED ORDER
ON THE UNITED STATES'
MOTION FOR ORDER TO
SHOW CAUSE**

Judge David Nuffer

Pursuant to hearings on the United States' motion for order to show cause, held in part on May 3, 2019,¹ IT IS HEREBY ORDERED THAT:

1. Unless otherwise stated below, all documents, information, and things required by this order shall be delivered to the Receiver no later than May 10, 2019. If it is impossible to deliver all required documents, information, and things by May 10, the remaining documents, information, and things shall be delivered to the Receiver no later than May 17, 2019.
2. Neldon Johnson shall deliver to the Receiver all corporate books and records, banking, financial, and accounting records, and all other documents and information relating to the property, business, books, records, accounts, assets, funds, or transfers made by the following:
 - a. International Automated Systems, Inc.
 - b. RaPower-3, LLC,
 - c. SOLCO I, LLC;
 - d. XSun Energy, LLC;
 - e. Cobblestone Centre, LC;
 - f. DCL-16A, Inc.;
 - g. DCL16BLT, Inc.;
 - h. LTB O&M, LLC;
 - i. N.P. Johnson Family Limited Partnership;
 - j. Solstice Enterprises;
 - k. Black Night Enterprises;

¹ ECF No. 559.

l. Starlight Enterprises; and

m. U-Check.

3. Neldon and Glenda Johnson shall deliver to the Receiver, no later than May 10, 2019, the computer that contains or contained the QuickBooks software program and all computer files on that computer.
4. Glenda Johnson shall deliver to the Receiver, no later than May 10, 2019, all records for any bank account titled in her name or over which she had signature authority from January 1, 2013 to the present. Glenda Johnson need not re-produce any such records already delivered to the Receiver. The Receiver shall promptly notify Glenda Johnson of any banking records missing among the records Glenda Johnson delivered to the Receiver on a flash on April 29, 2019.
5. Glenda Johnson shall deliver to the Receiver, no later than May 10, 2019, an accounting of the cash withdrawals she made on or since August 22, 2018.² This accounting shall include the amount of each withdrawal, the amount remaining from each withdrawal as of May 3, 2019, and the location of the money from each withdrawal.
6. Neldon and Glenda Johnson shall deliver to the Receiver, no later than May 17, 2019, all records for any real estate transaction by which real property was purchased in Glenda Johnson's name. This production shall specifically include copies of closing statements for each of the property sales and documents showing the sources of funds used for the purchases of each of the properties.

Commented [EHG1]: Adding this because of the order including this entity in the Receivership Estate, ECF No. 636.

² See ECF No. 444, Memorandum Decision and Order Freezing Assets and to Appoint a Receiver, entered August 22, 2018.

(continued...)

7. Neldon Johnson and R. Gregory Shepard shall comply with paragraph 26 of the Corrected Receivership Order³ no later than May 21, 2019.
8. All Respondents shall appear at the continuation of the hearing on the United States' motion for order to show cause on May 28, 2019 at 8:30 a.m. in Courtroom 7.300.
9. The law firm of Nelson Snuffer Dahle & Poulsen is directed to deliver, via e-mail or otherwise, a copy of this Order to all Respondents immediately, and to file a certification with the Court noting when and how it delivered the Order.

Dated:

BY THE COURT:

David Nuffer
United States District Judge

³ ECF No. 467.