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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

NELDON PAUL JOHNSON,

Plaintiff,

vs.

INTERNAL REVENUE SERVICE, An Agency of the US, and others,

Defendants.

MOTION TO DISMISS RECEIVER AND CASE

Case No. 4:18-cv-00087-DN

Plaintiff, Neldon P. Johnson, appears Pro Se, and submits this Motion to Dismiss as follows:

The receiver should be dismissed from this matter because more than the amount of the award ($50 million) was paid to the purchasers by Solstice and therefore there is nothing left to collect/manage or pursue.

This case should be dismissed for lack of jurisdiction over the matter because the Due Process rights of all parties were violated when the government failed to provide any disclosure in their Complaint, any discovery during the discovery period, and any expert information/report as required by the Scheduling Order to give notice of the damage claims of the government. Without notice the parties were unable to prepare for trial, and therefore the parties were denied Due Process.

The government did not offer any expert proof of damages, and used a database they did not understand. They had banking records, but instead used a database from a program that I developed. I intentionally made the program unable to delete data. The data was kept once posed, even if the purchaser later did not follow through with a purchase, or did not pay for a purchase, or paid and their check bounced. Nothing was ever dropped from the data base. Relying on it for damages was not appropriate. But I was not allowed to know that was what the government planned to do until we were actually in trial. So I had no ability to hire an expert, do an accounting, and show the numerous false statements contained in the government interpretation of the database. That was a denial of Due Process. Without Due Process, there is no jurisdiction.

The Court is not to make up law. It is to enforce law. The law required the government to put the information they were going to use against me into the original Complaint, or in their Initial Disclosures, or in answers to discovery, or in an expert report before the expert report deadline. The government did not do any of that. Instead they provided non-expert guesses in a surprise avalanche of testimony from Department of Justice paralegals, and exhibits they made based on conjecture from my tracking program (that they did not understand or interpret correctly). They did not use the bank records or deposit slips, and did not use actually deposited amounts, or segregate deposits to make sure there was not double-counting.

Now the Receiver is using the argument that there is no separate money, but money deposited into any of the entities all came from RaPower. If the Receiver's claims

are true, then there is no reason to account for any of the other companies' deposits because IAS, Solco I and xSun money is duplicated and came from RaPower! Which way is it? Can we be consistent in this case? If the Receiver is using an argument that this Court REJECTED and decided to award money from all the exhibits as if they were all different sums (not double counted) then there is a false premise underlying the Court's award. This should all have been sorted out before trial. We should all have known what the evidence was before discovery ended. If we has that information, the Court would not have made a bad decision.

Now the Receiver is doing what the government should have done and disclosed before trial. The fact that the Receiver is sorting through trying to determine what money existed and from where is a bright and clear EVIDENCE that the government failed to do their job before trial and gather the accounting information and disclose it.

Why would this Court allow this miscarriage of justice?

IRS form instructions for Form 3468 for tax year 2012 qualified progress expenditures for investment tax credits. And it states that qualified progress expenditures are those expenditures made before the property is placed in service for which the taxpayer has made an election to treat the expenditures as progress expenditures. Qualified progress expenditures property is any property that is being constructed by or for the taxpayer and which a has a normal construction process of two years or more and it is reasonable to believe the property will be new investment credit property in the hands of the taxpayer when it is placed in service. Placed in service requirement does not apply

to qualified progress expenditures. The IRS states this in their Form. "Placed in service requirement do not apply to qualified progress expenditures" and that was not disclosed by the IRS to the Court in this case.

I believe it is reasonable to emphasize my project is based on the fact that if it takes two or more years and it is reasonable to believe that the property will be a new investment credit property the hands the taxpayer and therefore the placed in service requirement does not apply to qualified progress expenditures.

The only other legal question to be considered is the lenses. They are the only product that was being sold using tax credits. With that, then the only issue is, do they work. Are they Fresnel lens?- because if they are they qualify for the tax credit. But for argument sake I'll establish the proof. The proof must start with a premise that is true. If the lens in question are Fresnel lens then by law of equal protection under the law established by the constitution, because the IRS has already granted tax credits for Fresnel lens they must allow it for mine. Therefore, all we have to know for the premise is that all people including citizens have a right guaranteed by the constitution of equal protection and the equal application of the law. Therefore, to receive a tax credit for the lenses all that must be proven is that the lens in question are in fact Fresnel lens. However, the Plaintiff must show or/and prove that they are not Fresnel lens. The Defendants are under no obligation to prove the lens are fact Fresnel lenses because we have no burden of proof until the Plaintiff has made a case against us. This they have not done. In a court of law certain procedures must be followed to bring evidence into

the court. When the testimony requires an expert witness to testify in order to bring evidence into the court an expert witness must be an expert in that field. Since the expert that testified on behalf of the Plaintiff was not qualified to be an expert in optics the testimony was not an expert in that field. A Fresnel lens is in the field of optics and their expert admitted that he was not an expert in optics. Therefore, by the law of substitution to establish a proof no expert testimony against the Fresnel lens by law is allowed as testimony concerning the viability of the lens to operate as Fresnel lens. And since the IRS has allowed Fresnel lens to qualify for tax credits then the supreme law of the land, the United States Constitution, because of equal protection must allow the lens in question to receive tax credits.

Another way to prove that the lenses are Fresnel lens is to use the scientific method. This is observation. Through observing the lens, it is obvious that they are flat (as required by Fresnel design). That they are grooved in such a way to refract light to a focal point. The groves can be mathematically measured, and the plastic will have a refractive index that will give the amount of bending in the light striking the grooved angles. Thus, the lens can be mathematically annualized and from that mathematically predict the focal point for that lens. The proscribed procedure is enough to satisfy an optical expert that the lens in question do in fact qualify as Fresnel lens.

As Judge Nuffer pointed out, the Fresnel lens produce heat in excess of 750 degrees. This clearly establishes the fact that they concentrate solar energy. NO question about that because ambient sunlight will not produce such heat intensity. To

further use the scientific method, we observe that the lens in fact concentrate solar energy. Since this can only be accomplished by either mirrors or lenses and clearly they are not mirrors therefor they must be lens. Since they are flat and have groves and have a refractive index they are in fact Fresnel lenses.

An optic expert has annualized the lens in question and concluded in his expert opinion agrees that they are indeed Fresnel lens. The contention made by Judge Nuffer is absolutely flawed. There can be no question they are Fresnel lens. Therefore, they qualify for the tax credit.

The definition for process heat is given on the government's own web site. This is found at www.epa.gov. This site describes in detail process heat and its application. This web site establishes that the lens in question make process heat and therefor qualifiers for the tax credit in question. (See attached EPA printout) The information explaining what process heat is and is carefully pointed out.

When Mancini, the government's expert witness, testified that he knew what process heat was he proceeded to describe only a limited definition. He either fabricated his definition or he does not understand the term. Either way this is fraud on the court. If he did not understand the term then he could not claim to be an expert. If he deliberately misled the court he committed perjury. Ether one is fraud on the court. Now even though the court did not allow a comparative analysis of competing technologies it is still permissible to use them for a comparative analysis for proving bias and for discrimination and violating due process. The violation of due process removes

the court's jurisdiction The proof that all of this is allowed is two part. First even though certain comparative analysis was not directly allowed by the court by stipulation allowed all depositions including Mr. Johnson's and all documents including all footnotes and references to be included as part of the court records. The second is that any item or testimony or relevant action by the court that would prejudice the defense is also allowed because of the non-discrimination clause/equal protection of the Constitution. If it can be shown that the court purposely or by accident showed any forum of due processes violations or any form that would deprive equal protection under the law, it is goes to the court's right of jurisdiction and its bias. And lastly jurisdiction can be raised at any time.

For emphasis (exhibit #2), IRS form 3468 investment tax credit. Specific part, (qualified progress expenditures). It says in part in the exhibit "Qualified project progress expenditures are those expenditures made before the property is placed in service and for which the taxpayer has made in an election to treat the expenditures as progress expenditures. Qualified progress expenditures property is any property that is being constructed by or for the taxpayer and which (a) has a normal construction period of two years or more and (b) it is reasonable to believe that the property will be a new investment credit property in the hands of the taxpayer when it is placed in service. The placed in service requirement does not apply to qualified progress expenditures."

Energy credit Internal Revenue Code 45 and 48. Through the tax code, the federal government has implemented several programs to incentivize renewable energy

projects. One such program is found in IRC 45 in conjunction with IRC 48. Simply stated the sections provide for a credit of 30% the basis essentially the purchase price of energy equipment that is placed in service during the taxable year. For energy equipment that has not been placed in service, such as equipment still being manufactured, the taxpayer can elect to take a portion of the credit if the equipment is a qualified progress expenditure property to QPEP. QPEP is property being constructed by or for the taxpayer and which has a normal construction period of two years or more, and it is reasonable to believe that the property will qualify for the energy credit from IRC 48 once it is placed in service.

An owner of QPEP may claim the 30% credit on the amount paid towards the purchase during the tax year to another person for the construction of QPEP, or an amount attributable to the portion of QPEB that is completed during the tax year whichever is less. Detailed language of this energy credit can be found in the United States code title 26, 45 through 48.

How could Mr. Johnson know or should have known that if the purchaser elected to take progress expenditures they would not qualify for tax credits and the placed in service requirement does not apply to qualified expenditures, especially since a tax attorney indicated that they could. All the CPAs said they could. Form 3468 said they could. The tax code said they could. No court statement was made on the record saying they could not.

The only person that said they could not was judged Nuffer. But it was only said in the conclusion of the case. No statement was made in any court proceedings or

testimony that reflected any such statement. Judge Nuffer was once again offering testimony acting as opposing counsel by arguing the premise. Acting as witness introducing testimony in the case. Then acting as a judge by ruling on it and making it part of his conclusions of the facts.

These actions clearly are prohibited by the laws statutes and Constitution. Rendering those actions as violating due process and therefore they are completely without jurisdiction. And they are clearly outside the scope of his authority and is clearly not acting within the bounds set by the Constitution.

No one could believe that the CPA preparing the taxes for a client would be influenced by any statements made by Mr. Johnson concerning taxes laws and their preparations. No one could believe that the tax attorneys would be influenced by any statement Mr. Johnson made concerning tax laws. It is ludicrous to suggest that Mr. Johnson's power and influence could reach such individuals as to persuade any professional involved using tax code to perform their functions. Neither would they rely on a statement made by Mr. Johnson to prepare any tax forms or tax returns.

Even if you could conclude that persons buying the Fresno lens could be influenced by his statements you could not ever come to the conclusion a professional tax preparer could. In order for a professional tax preparer or CPA to prepare those people's tax returns they would either have to conclude that the tax form 3468 applied or did not apply from their own knowledge. There is no rational way to conclude that Mr.

Johnson's influence would in any way convince tax professionals or influence their decisions regarding the tax laws in preparing clients tax returns.

Solstice paid for lenses: Solstice indicated that they have paid back all persons or customers that purchased lenses. Solstice also paid for the first five years of the leases according to the lease contract. This cancels all monies owed to any government agency. Therefore, the receiver's jurisdiction is canceled.

Concentrated PV systems: It is a well-known fact concentrated PV solar does exist. It is also a fact that if concentrated solar PV systems can be proven to function that it could dramatically decrease the cost over time PV solar systems mass production.

So rather than discuss the science behind concentrated solar PV I will show why concentrated solar PV systems is not yet been affordable. Concentrated PV solar has three main problems and must be solved before concentrated solar can achieve success. First heat. In order for the concentrated PV system to function optimally PV systems must remain under a specified temperature. This is related to the material used to manufacture the PV system. Therefore, an adequate cooling system must be used to dissipate the heat from the PV system.

Second , it cannot be configured as a series circuit. In order for a concentrated PV system to operate in today's environment the series PV system cannot be used. This is because of the voltage that a single PV chip can produce. Typically this is .5 V. To make a PV system operate properly a minimum voltage of 25 V is needed. Usually 25 Volts is the maximum series connection available because of the internal resistance of the PV

chips. Any further number of chips will reduce the power delivered by the PV system. Because, the internal resistance will deplete the power that those chips can produce.

Another problem that a series PV system creates is the lowest producing PV chip in the series circuit allows all other PV chips to produce only what the lowest producing chip in the for circuit will produce. If one PV chip becomes inoperable then all the PV chips in the circuit are also rendered inoperable. This becomes an extremely difficult problem for all existing concentrated solar PV systems available today. For example, if one chip at a flux density of 10 suns and another at 100 suns in a concentrated solar PV system the output of the system is only allowed to produce power of the 10 suns. So, the power of the 100 suns PV chip is wasted. Therefore, a concentrated solar PV system using a series circuit renders the system useless in taking advantage of the concentrated solar system. Before concentrated solar PV systems can be put into production this problem must be solved.

Parallel configured concentrated solar PV systems are also impossible. Because of the maximum voltage output of a PV chip. The voltage will not change when a higher concentration of light hits the solar PV chip. The voltage remains the same. Because of this limitation as more power from the sunlight increases the current in the solar PV chip also increases. Under one sun condition say the output of the chip is 5 W which is typically typical power is equal to the current times the voltage. Or in this case .5 V times 10 amps. Therefore 10 suns equals 50 watts or .5 V times 100 Amps. As the amps increases the voltage drop across a resistance also increases. A 1 million home resistance times 100

amps equals .1 V that's at 10 suns. At 100 suns the voltage drop will be equal to 1 V or 1000 Amps. As can be shown 1 V is well above .5 Volts. This circuit cannot deliver any power to the output circuit. This proves that concentrated solar PV systems cannot function in a parallel circuit configuration.

For these two reasons concentrated solar PV systems have never functioned. There have been a variety of companies try to address these issues. All have failed. The US government has spent billions of dollars trying to solve this problem without success. Other private companies have tried in vain to try to make concentrated solar PV systems work. Again, without success. The reason is simple, but that solution has proven to be more elusive. Again, though the solution is simple. A new circuit configuration has to be developed. It cannot be a series circuit configuration nor could it be a parallel circuit configuration. The solution is isolation of the solar PV's circuit configuration. This is the solution that I have achieved. The circuit that I have produced for concentrated solar PV chip is isolation. It requires a patented isolation circuit I also have a patent on. It is the only solution to make concentrated solar PV systems useful. We have made a concentrated solar PV system using the isolated PV circuits and place those circuits in a concentrated solar environment and they have worked perfectly. Concentrated solar PV systems now exist and I have patents.

Concentrated solar isolated circuit proof: First, I will start with concentrated isolated PV circuits. I will show through observation using scientific proven instruments that the isolated PV circuits do exist and function as described and other individuals skilled

in the art can reproduce the experiment. If I can accomplish this task that it is scientific proof that the isolated circuit works. The new isolated concentrated PV system works by allowing each individual PV chip to produce power independent of all other PV chips. Each chip acts as its own circuit. The power from the PV chip is accepted by a circuit dedicated to that PV chip. The circuit then combines the power from each individual circuit. This power is delivered to the power grid. Power grid is isolated from the PV chips. Therefore, the output from each PV chip is totally independent from each other from the power grid. This makes the relationship voltage, current, and power. By adding circuits to these boards, the current is divided by the number of connections made to each PV chip. The more connections the less current per connection. The less current per connection the less internal resistance voltage drop. The lower the voltage drop the lower the internal power loss. The less internal power loss the more efficient the system. Figure 2 will show that the more isolated circuits connected to the PV chip the lower the power loss per chip. For example, figure 2 shows one sun to 100 suns. The higher the number of suns the higher the current. In order to get maximum power, you need higher number of isolated circuits. To maintain the maximum efficiency, you need several isolated circuit connections to each PV chip.

Allowing evidence to be introduced by unqualified witnesses who did not even understand the language used in their exhibits. Preventing any discovery of witnesses employed by the Department of Justice, Tax Division because it was "privileged" by then allowing paralegals employed by the Department of Justice, Tax Division to testify in the

case was another denial of equal protection and due process. Not requiring the government to disclose evidence, that put Defendants at the disadvantage of not being able to hire an expert accountant and expert economist to testify against the evidence that the government hid during discovery. Appointing a receiver to destroy the economic ability of myself to protect myself against illegal acts because my assets are frozen, interfering with my right to counsel, right of due process and equal protection.

Now assets are being dissipated before the 10th Circuit Court has heard my appeal. Destroying my property and the other Defendants' property through a Receiver is not only unwise, it is abusive.

Dated this 22 day of April, 2019

Neldon Johnson, Pro Se