

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
Three Angels Broadcasting Network, Inc.,)	
an Illinois non-profit corporation, and)	
Danny Lee Shelton, individually,)	Case No.: 07-40098-FDS
)	
) Plaintiffs,)	
v.)	
)	
Gailon Arthur Joy and Robert Pickle,)	
)	
) Defendants.)	
_____)	

AFFIDAVIT OF ROBERT PICKLE

NOW COMES Robert Pickle of Halstad Township, Norman County, Minnesota, who deposes and testifies to the following under pain and penalty of perjury:

1. Attached hereto as **Exhibit A** is a web page about Attorney Gregory Simpson (“Simpson”) posted at the website of his law firm.
2. Attached hereto as **Exhibit B** is Simpson’s June 12, 2008, letter to me demanding that I immediately send him the documents we got from Glenn Dryden and Kathy Bottomley, or else he would immediately seek sanctions. I thought, what nerve this guy has. Here Plaintiffs refused to produce any of their Rule 26(a)(1) materials until March 28, 2008, after being compelled by court order, and Plaintiffs still hadn’t produced any documents responsive to my requests to produce served in late 2007, and he had the gall to threaten me if I didn’t send him documents he had orally inquired about but 6 days before.
3. Based on my records, Plaintiffs only produced tax filings for Three Angels

Broadcasting Network, Inc. (“3ABN”) from 2001 to 2005 for Oregon, California, Illinois, and the IRS. Even with that, the 2003 Form AG990-IL and 2005 Form CA 199 were missing, and some pages were illegible.

4. The 3ABN board and executive committee minutes that 3ABN produced often contain redactions that Defendants never agreed to.

5. Attached hereto as **Exhibit C** is the docket sheet for Defendant Joy’s bankruptcy through January 14, 2008.

6. Attached hereto as **Exhibit D** are relevant pages of the instructions for IRS Form 990, which requires under Part V-A the listing of any director or officer who has served at any time during a given year. Even though Larry Romrell, Garwin McNeilus (“McNeilus”), and Stan Smith (“Smith”) were reported as being added to the 3ABN Board in 2007, they were not reported on 3ABN’s 2007 Form 990. (Doc. 63-30 p. 28; Doc. 162-13 pp. 12–13).

7. However, 3ABN’s ownership report filed with the FCC on April 1, 2008, did report these new directors. Attached hereto as **Exhibit E** is that report.

8. Attached hereto as **Exhibit F** are relevant pages of the 2007 IRS Form 990 filed by ASI Missions, Inc. (“ASI”), which lists both McNeilus and Smith as fellow directors on page 4. The ASI board decides what ministries get what sort of funding each year.

9. Documentation of McNeilus’ philanthropy is already a part of the record. (Doc. 109 ¶ 9, Table 1; Doc. 109-5 to 109-11). Attached hereto as **Exhibit G** is the identification of Smith as the treasurer of the O. J. Jacobson Foundation.

10. A mutual friend of McNeilus and mine approached me about February 2008 and gave me McNeilus’ assurance that Danny Lee Shelton (“Shelton”) was gone from 3ABN. I really wasn’t sure what to make of this at the time since to my knowledge Shelton was still a director of 3ABN. But later we received reports that at the May 2008 3ABN Board meeting, directors were

shocked to be told by Plaintiffs' counsel that the allegations about Shelton's book deals with Remnant Publications, Inc. were in fact true, that Shelton had come one vote from being terminated, and that directors had resigned in protest due to the outcome of that vote.

11. Attached hereto as **Exhibit H** is the web page found at <http://michaelprewitt.com/2009/03/musical-chairs-for-board-members-with-photoshop-1134/>. Michael Prewitt ("Prewitt") is an employee of 3ABN. I have circled McNeilus, Smith, and May Chung ("Chung"). Smith is the one with the mustache. Prewitt thus confirms that McNeilus, Smith, and Chung are no longer directors, and that McNeilus and Smith were directors in 2007.

12. Chung was one of the earliest supporters of 3ABN, was a director for many years, and has given millions of dollars away to various causes. Attached hereto as **Exhibit I** is a *3ABN World* article stating such.

13. I have examined how much money ASI reported giving to various ministries as well as ASI promotional material, and I can personally say that ASI has historically been an extremely strong financial supporter and promoter of 3ABN. Page 3 of Exhibit F, for example, shows that ASI gave 3ABN two checks totaling \$125,000 in the year 2007, an amount that appears greater than that given by ASI to any other identifiable ministry on that same list. Attached hereto as **Exhibit J** is ASI's list of 40 projects ASI raised funds for for the year 2007, taken from ASI's website. Out of those 40 projects, 3ABN was to receive 11.8% of the total dollars (\$150,000 out of \$1,269,000). Such endorsements send a message that 3ABN is an enterprise worth sending donations to. Likewise, a lessening of support or promotion by ASI of 3ABN after McNeilus and Smith resigned from the 3ABN Board would have a similar but opposite ripple affect.

14. Attached hereto as **Exhibit K** is my motion to dismiss Shelton's motion to quash Defendants' subpoena of MidCountry Bank, filed in the District of Minnesota, which includes on

page 3 the argument that Shelton did not have standing to bring a motion to quash on behalf of DLS Publishing, Inc.

15. I will file conventionally as **Exhibit L** a CD containing the recording of the March 4, 2008, motion hearing in District of Minnesota case no. 08-mc-0007. (I tried more than once to obtain a transcript at the rate set by the Judicial Conference, but was unable to do so.) This hearing was before Magistrate Judge Boylan. Attorney Jerrie Hayes was present in person, and Defendant Joy and I appeared by telephone.

16. I have accurately transcribed a portion of the recording of the March 4, 2008, hearing as follows:

THE COURT: How does, how does he, Danny Lee Shelton, have any standing to complain about the fact that they're looking for corporate records. Let's start there and go backwards.

MS. HAYES: Well, as is, as, as is discussed and admitted by the defendants in their own briefing to this Court, Danny Lee Shelton is the sole shareholder of the corporation --

THE COURT: So what.

MS. HAYES: -- sole proprietor, and in --

THE COURT: It's still a separate legal entity, isn't it?

MS. HAYES: -- and he is the person, but he is the person representing the corporation in this, in this capacity. It is --

THE COURT: You haven't brought the motion on behalf of that corporation. You brought it on behalf of Shelton.

MS. HAYES: Right. It's brought on behalf of Danny Lee Shelton to quash the subpoena for, that, to quash the subpoena which seeks records of all three parties. Yes, your Honor. And that is because again Mr. Shelton has an an interest in the records of those corporations, and, and makes, and having a right or interest in the corporation --

THE COURT: Is he an officer of the corporation right now, do you know?

MS. HAYES: Ah, he is the only officer of the corporation, and the sole proprietorship has been uh dissolved. It hasn't been in operation since the

dissolution of the party's marriage.

THE COURT: On the corporation side, you're not representing the corporation, today?

MS. HAYES: Danny Lee, I'm here representing Danny Lee Shelton who is, who has acted on behalf of the corporation, yes. Umm, I have --

THE COURT: The corporation can only act on its own behalf, can't it? I mean, it, it's a separate legal entity.

MS. HAYES: It is a separate legal entity, but Mr. Shelton is the, IS the board of directors. He makes all decisions and takes all action on the --

THE COURT: Well let's put it this way, if, if someone sued the corporation and got a judgment and then went to Mr. Shelton's personal bank account and tried to get it satisfied against the corporation I guess the defense would be, I'm not the corporation, you can't do that. Right?

MS. HAYES: As to his personal bank records I would assume that would be more [???] --

THE COURT: So why should I, I thought that on the other side would say from a personal standpoint he has the right to come in and represent the corporation? And you can't have it both ways, it seems to me.

MS. HAYES: Well, since.

THE COURT: I mean, if you're going to have the protections of a corporate body, it seems to me that there's certain umm protection that corporations provide. And you also have some burdens that are associated with that, and that means that it's a separate corporate entity, and if you're in here making a motion on behalf of that corporation tell me that. But if you're not, and if it's on behalf of Shelton, I'm not sure how Shelton as an individual can do that.

MS. HAYES: Well again your Honor, for, for ease, for economy, judicial efficiency, ease, use of resources, Mr. Shelton chose to have, to, to act on behalf of the corporation and not retain yet another lawyer in this case to represent the corporate entity. Umm.

THE COURT: [Maybe?] you can represent him, I'm not sure, but it doesn't seem to me that Shelton individually can.

17. Attached hereto as **Exhibit M** is the transcript of the June 16, 2008, motion hearing before Magistrate Judge Ellen Carmody in Western District of Michigan case no. 08-mc-

0003.

18. Attached hereto as **Exhibit N** are relevant pages of Plaintiffs' Brief of the Appellees filed in First Circuit case no. 08-2457.

FURTHER DEPONENT TESTIFIES NOT.

Signed and sealed this 28th day of May, 2009.

/s/ Bob Pickle

Bob Pickle
Halstad, MN 56548
Tel: (218) 456-2568

Subscribed and sworn to me
this 28th day of May, 2009.

/s/ Lori J. Rufsvold
Notary Public—Minnesota

My Commission Expires Jan. 31, 2010