

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** are relevant pages of the 2005 IRS Form 990 filed by Three Angels’ Broadcasting Network, Inc. (“3ABN”). 3ABN reports on page 2 that it paid \$177,760 in legal fees for that year.
2. Attached hereto as **Exhibits B** are relevant pages from 3ABN’s 2006 IRS Form 990. Attached hereto as **Exhibit C** are relevant pages from 3ABN’s 2007 IRS Form 990.
3. Attached hereto as **Exhibit D** are relevant pages from 3ABN’s 2008 IRS Form 990, not signed until January 5, 2010.
4. There are multiple reasons why 3ABN might have delayed filing its 2008 Form 990 until 2010. For one, this Form 990 acknowledges that 3ABN continued to pay alleged pedophile Tommy Shelton in 2008, more than a year after he left 3ABN a second time amidst

allegations of child molestation. (Ex. D at Sch. L, Part IV; Doc. 63-15 p. 1; Doc. 8-2 p. 62; Doc. 81-11 pp. 10–17). Undoubtedly, many Seventh-day Adventists will be outraged by this.

5. The 2008 Form 990 also asserts that in 2008, 3ABN gave \$96,000 worth of land to Danny Lee Shelton (“Shelton”) instead of summarily firing him for his misdeeds. (Ex. D at Sch. J). But in the fall of 2007, we understood from sources that the land was given to Shelton about September 2007, not in 2008.

6. Attached hereto as **Exhibit E** is an email I wrote on November 28, 2007, memorializing the fact that a source told us that the 3ABN Board had had a special meeting in St. Louis, Missouri on November 27, 2007. At the time we wondered if the 3ABN Board had met with the IRS in connection with the IRS’s criminal investigation of the Plaintiffs, since the IRS’s office is near St. Louis at Fairview Heights, Illinois. The same email refers to the gift of land to Shelton and the building permit referred to in the next paragraph.

7. Attached hereto as **Exhibit F** is a building permit dated November 15, 2007, on which Shelton claimed to be the owner of the property in question, but on which permit county officials stated that the land was still titled in 3ABN’s name.

8. Attached hereto as **Exhibit G** is the deed (and relevant pages of the real estate transfer declaration) by which 3ABN transferred 48 acres to Shelton on January 22, 2008, in alleged exchange for \$96,000 consideration, pursuant to a board vote dated September 13, 2007. Yet according to 3ABN’s 2008 Form 990, Shelton never paid \$96,000 for that land after all since it was a “gift” from 3ABN to him.

9. I requested a copy of the board minutes authorizing this transfer of land to Shelton in my Requests to Produce (Doc. 63-20 at Def. 16(c), Req. 1), but Plaintiffs claimed that all board minutes after September 10, 2007, were subject to attorney-client privilege and work product privilege. (Doc. 92 p. 5).

10. Another reason why 3ABN may have so long delayed the filing of their 2008 Form 990 is to prevent this Court and Defendants from discovering that Plaintiffs lied to this Court when Plaintiffs asserted that donations as of October 22, 2008, were back up to pre-June or pre-July 2006 levels, and that this showed that 3ABN's public reputation had been restored.

11. Table 1 contains the following figures from page 1 of 3ABN's 2006 to 2008 Form 990's (Pickle Aff. Ex. B-D p. 1 at Part I, either ln. 1e or ln. 8). The data shows that 2008 donation levels were still almost half a million dollars lower than in 2006.

TABLE 1: Total Donations Received by 3ABN

	2006	2007	2008
Donations	\$15,075,120	\$14,199,289	\$14,591,460

12. But that isn't the complete picture, since the total donation figures on page 1 of 3ABN's Form 990's contain a fluctuating amount of donations from disqualified persons such as board members. Higher donations from board members would say nothing about a restoration of 3ABN's public reputation, and can be intentionally used to inflate or deflate donation levels. Therefore, the figures for donations from disqualified persons must first be subtracted out.

**TABLE 2: Total Donations to 3ABN Less Donations from Disqualified Persons
(Total Donation Figures Drawn from Page 1 of Form 990)**

	2006	2007	2008
Total Donations	\$15,075,120	\$14,199,289	\$14,591,460
from Disqualified Persons	-\$417,415	-\$447,164	-\$1,127,407
Donations from Public	\$14,657,705	\$13,752,125	\$13,464,053

13. Table 2 contains figures for total donations, from which are then subtracted the amounts donated by disqualified persons. (Ex. D at Sch. A, Part III, ln. 7a). The remainders show that in 2008, 3ABN actually received almost \$300,000 less in donations from the public than in

2007, and that 2008's donations from the public were actually almost \$1.2 million less than in 2006. Therefore, 2008 donation levels were not back up to what they had been in the first half of 2006.

TABLE 3: Total Donations to 3ABN Less Donations from Disqualified Persons
(Total Donation Figures Drawn from Sch. A of 2008 Form 990)

	2006	2007	2008
Total Donations	\$15,075,136	\$14,044,281	\$14,591,460
from Disqualified Persons	-\$417,415	-\$447,164	-\$1,127,407
Donations from Public	\$14,657,721	\$13,597,117	\$13,464,053

14. Table 3 is the same as Table 2, except that the figures for total donations are drawn from Schedule A, Part IV-A of the 2008 Form 990 instead of from page 1 of each year's Form 990. This results in differences for 2006 and 2007, but not for 2008.

TABLE 4: Public Support as Calculated by the IRS
(Total Donation Figures Drawn from Sch. A of 2008 Form 990)

	2006	2007	2008
Total Donations	\$15,075,136	\$14,044,281	\$14,591,460
Sales Revenue	\$2,625,372	\$1,569,867	\$1,349,346
Totals	\$17,700,508	\$15,614,148	\$15,940,806
from Disqualified Persons	-\$417,415	-\$447,164	-\$1,127,407
Certain Large Donations	-\$1,660,056	-\$1,393,332	-\$708,734
Total Public Support	\$15,623,037	\$13,773,652	\$14,104,665

15. The IRS determines public support by also adding in gross sales revenue and subtracting out large donations from non-disqualified persons. (Ex. D at Sch. A, Part III, Ins. 2 and 7b). Table 4 presents the results of doing so. However, Plaintiffs contended that donations, not sales revenue, were back up to the levels they were during the first half of 2006. Still, this is how the IRS calculates "public support," and it results in 2008's public support being more than

\$1.5 million lower than in 2006.

16. The donation levels being different on page 1 and 2008's Schedule A can easily be explained, since the amounts on Schedule A's "Support Schedule" do not include "unusual grants." However, no easy explanation is apparent for the differences between the figures reported on the Schedule A's Support Schedules for 2007 and 2008. (Ex. C at Sch. A, Part IV-A, ln. 15; Ex. D at Sch. A, Part III, ln. 1). Table 5 contrasts the discrepancies between how the Schedule A's for those two years report figures for the years 2006 to 2008. (I calculated the missing public support values using the IRS method used in Table 4 above.)

TABLE 5: Differences in Figures on 2007 and 2008 Sch. A's

	2004	2005	2006
Total Donations (2007 Form)	\$14,237,962	\$14,671,736	\$16,784,084
Total Donations (2008 Form)	\$13,582,398	\$13,964,981	\$15,075,136
Sales Revenue (2007 Form)	\$1,924,281	\$2,016,368	\$2,531,931
Sales Revenue (2008 Form)	\$1,858,696	\$2,085,769	\$2,625,372
Total (2007 Form)	\$16,162,243	\$16,688,104	\$19,316,015
Total (2008 Form)	\$15,441,094	\$16,050,750	\$17,700,508
Public Support (2007 Form)	\$15,405,565	\$15,816,394	\$17,238,544
Public Support (2008 Form)	\$14,684,416	\$15,179,040	\$15,623,037
Interest & Dividends (2007 Form)	\$37,076	\$51,271	\$58,447
Interest & Dividends (2008 Form)	\$36,936	\$47,623	\$58,229

17. If the values given on the 2007 Schedule A are used instead of the values given on the 2008 Schedule A when calculating the Public Support figure for 2006, then public support in 2006 was over \$1.6 million higher than what was shown in Table 4. That would in turn make public support in 2008 more than \$3.1 million less than public support in 2006.

18. The discrepancies brought to view in Table 5 illustrate once again that a forensic audit would be necessary to determine exactly what the various figures should be. Other

discrepancies I found while perusing these forms include the following:

a. 3ABN's 2006 Schedule A gave \$417,415 and \$1,660,056 as the respective figures for donations from disqualified persons and certain large donations in 2005, while 3ABN's 2007 Schedule A gave these figures for 2005 as \$263,700 and \$608,010.

b. 3ABN's 2006 Schedule A, Part IV-A, line 27c does the following erroneous calculation: $59,064,611 + 8,250,022 = 68,314,633$. The sum should instead be 67,314,633.

c. 3ABN's 2008 Schedule D, Part IX makes the following erroneous calculation regarding "Other assets," a category comprised of deposits, charitable gift annuities, and trusts: $288,951 + 12,380,846 + 30,227,820 = 43,900,417$. The sum should instead be 42,897,617, unless the error is in one or more of the three values that comprise the sum.

19. The information on 2008's Schedule D, Parts IX and X regarding other assets and other liabilities was formerly reported by 3ABN in an attachment to its Form 990. (Doc. 63-32 pp. 15, 24; Doc. 162-13 p. 11). "Other liabilities" is a category that consists of unitrust liability, revocable trust liability, and annuity liabilities. (*Id.*) Table 6 contrasts the totals from these sources for the years 2005 to 2008, showing the gap between other assets and other liabilities. The last row of Table 6 uses the figure for Other assets obtained in ¶ 18(c) above.

TABLE 6: Differences Between Other Assets and Other Liabilities

	Other Assets	Other Liabilities	Difference
2005 Form 990	\$35,578,962	\$36,515,269	-\$936,307
2006 Form 990	\$41,572,781	\$43,493,993	-\$1,921,212
2007 Form 990	\$39,986,624	\$43,439,944	-\$3,453,320
2008 Sch. D (Parts IX & X)	\$43,900,417	\$46,206,633	-\$2,306,216
2008 Sch. D (Corrected)	\$42,897,617	\$46,206,633	-\$3,309,016

20. Attached hereto as **Exhibit H** is 3ABN's 2007 audited financial statement. Under Note 11 on page 10, it states that the 3ABN Board voted on December 5, 2007, to "internally assign[] company owned buildings and real estate with an historical cost of \$7,505,993.00 to the annuities asset account." Because the December 5, 2007, 3ABN Board vote occurred just eight days after the purported 3ABN Board meeting in St. Louis (Ex. E), the two events are likely connected. But it is hard to say whether the IRS found that the reserves in 3ABN's annuities asset account were insufficient, whether 3ABN used annuity funds to pay the IRS (cf. Doc. 81-2 p. 140; Doc. 81-7 p. 25), or whether 3ABN was trying to protect its buildings and real estate from claims against 3ABN.

21. The 2007 audited financial statement also explains under Note 17 that in January 2008, two television stations were sold for a total of \$1,150,000. This sale would therefore make up the bulk of the sale of assets reported in the 2008 Form 990, Part VIII, ln. 7c. However, 3ABN reported no cost or basis for these assets on ln. 7b.

22. Table 7 pictures 3ABN's legal expenses for the years 2005 to 2008, as reported on 3ABN's Form 990's for those years. (Ex. A p. 2; Doc. 162-16 p. 2; Doc. 162-13 p. ; Ex. D p. 6). We have repeatedly raised the suspicion in court filings that 3ABN has been footing the bill for Shelton's participation as an individual in the instant litigation. 3ABN Board chairman Walter Thompson indicated that such was the case (Doc. 81-9 pp. 18-19), and neither Plaintiff has denied it or provided evidence to the contrary.

TABLE 7: 3ABN's Reported Legal Expenses

	2005	2006	2007	2008
Reported Legal Expenses	\$177,760	\$152,654	\$1,100,545	\$814,096

23. Attached hereto as **Exhibit I** is my email to Attorney Gregory Simpson ("Simpson") dated January 5, 2010, and attached hereto as **Exhibit J** is Simpson's response

dated the very same day. Simpson says that he will seek to invoke the confidentiality order to protect what does not qualify for protection under that order. I take his threat to mean that he will seek to hold Defendants in contempt of court for publishing material they got from other sources, even though the confidentiality order explicitly allows Defendants to do so.

24. Attached hereto as **Exhibit K** is our motion filed in the First Circuit to enlarge the record on appeal to include documents produced by Remnant Publications, Inc. (“Remnant”) (“Remnant documents”), and to file these documents under seal. Attached hereto as **Exhibit L** is our reply to Plaintiffs’ response to that motion. The First Circuit informed us that the Remnant documents were already part of the record on appeal for our second appeal.

25. The purpose of the telephone calls Gailon Arthur Joy and I made to the courthouse, of which I testified earlier (Doc. 206 ¶¶ 7–11), was not only to locate the MidCountry records, but also to request the release of those records to us.

26. Attached hereto as **Exhibit M** is Judge Phil Gilbert’s July 15, 2008, order from the Southern District of Illinois instructing us to file a status report within ten days of Magistrate Judge Hillman’s ruling on my motion to compel and Plaintiffs’ motion to limit the scope of discovery. Accordingly, we filed such a status report with an affidavit and exhibits on September 15, 2008, all of which are attached hereto as **Exhibit N**.

27. My computer screen is set to a resolution of 1024 x 768 pixels. When I open a document with Adobe Acrobat or my browser, SeaMonkey, I usually do so using a full-screen window. My task bar is set to be hidden, which allows the window to be a little larger.

28. Attached hereto as **Exhibit O** are two screenshots of my computer screen, having just opened up Doc. 160 in Adobe Acrobat and in SeaMonkey. I still maintain that the text visible in these screenshots, along with the docket text associated with Doc. 160, suggests that the courthouse was acknowledging receipt of the bank statements we subpoenaed from MidCountry

Bank, not the surrender of those bank statements to Plaintiffs' counsel. I might have understood differently if the courthouse had already given us notice that it had finally located the MidCountry records.

29. Attached hereto as **Exhibit P** is my letter to Pucci dated December 29, 2009, and attached hereto as **Exhibit Q** is his reply dated the very same day.

30. Attached hereto as **Exhibit R** are my letters to Duffy, Kingsbury, and Penwell dated December 29, 2009, and attached hereto as **Exhibit S** is Simpson's reply dated the very next day. Thus far I have never received a reply from Duffy, Kingsbury, and Penwell. We wonder if these three lawyers got Simpson to leave their law firm, taking this case with him, in order to try to insulate their law firm from the liability of filing and litigating this hopelessly frivolous case.

FURTHER DEPONENT TESTIFIES NOT.

Signed and sealed this 11th day of January, 2010.

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

Subscribed and sworn to me
this 11th day of January, 2010.

/s/ Lori J. Rufsvold
Notary Public—Minnesota

My Commission Expires Jan. 31, 2010