AO88 (Rev. 12/06) Subpoena in a Civil Case

Issued by the

UNITED STATES DISTRICT COURT

Central DISTRICT OF Massachusetts

Three Angels Broadcasting and Danny Shelton

V.

Gailon Arthur Joy and Robert Pickle

SUBPOENA IN A CIVIL CASE

Case Number:[1] 07-40098-FDS

TO: Alan Lovejoy, or Keeper of the Records of Gray Hunter Stenn LLP. Greetings!

☐ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME

☑ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

See Exhibit A, attached hereto.

PLACE	DATE AND TIME
Sam C. Mitchell & Assoc., Lower Floor, 115 1/2 E Main St., West Frankfort, IL 62896	1/3/2008 9:00 am

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
Kathleen Nesbitt, Deputy Clerk	11/30/07

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

SARAH A. THORNTON USDC 595 Main St Worcester MA 01608

(See Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), on next page)

[1] If action is pending in district other than district of issuance, state district under case number.

EXHIBIT 4

EXHIBIT A

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified:

For whatever time periods that you have such documents in your possession:

- All contracts, agreements, work papers, engagement letters, management letters, management representation letters, or other documents arising from any auditing services rendered to 3ABN, as defined herein.
- All contracts, agreements, tax returns, invoices, records of payments made or received, whether direct or indirect, or any other accounting records or documents arising from any accounting or tax form preparation services rendered to 3ABN, as defined herein.
- All contracts, agreements, work papers, engagement letters, management letters, management representation letters, or other documents arising from any auditing services rendered to Danny Shelton, as defined herein.
- All contracts, agreements, tax returns, invoices, records of payments made or received, whether direct or indirect, or any other accounting records or documents arising from any accounting or tax form preparation services rendered to Danny Shelton, as defined herein.

Definitions:

- ***3ABN*** means Three Angels Broadcasting Network, Inc., and all its related organizations or organizations which it controls, and their assumed names, whether past or present, whether for profit or non-profit, including but not limited to: Three Angels Broadcasting, Inc., Three Angel's Broadcasting School, Inc., Broadcast Communications Service, Inc., Three Angels TV & Radio Broadcasting Network (in Russia), Tres Anjos Broadcasting Network - LTDA (in Brazil), Association Three Angels Broadcasting Network (in Peru), 3ABN, 3ABN Philippines, Inc., Three Angels Enterprises, L.L.C., Crossbridge Music, Inc., 3ABN Books, 3ABN Music, or 3ABN Radio.
- ***Danny Shelton*** means Danny Lee Shelton, and any of his DBA's or organizations over which he has or has had control, including but not limited to D & L Publishing and DLS Publishing.
- ***Or*** is used in the inclusive sense (i.e. "and/or"). Thus, if a request seeks all documents relating to "A or B," You are to produce all documents relating to "A," all documents relating to "B," and all documents relating to "A and B."
- ***Document*** shall have the broadest possible meaning permitted under applicable law, and shall include any written, recorded or graphic material of any kind, including the originals and all non-identical copies, including those materials in electronic form, that is or has been in Your possession, control or custody or of which You have knowledge, including, but not limited to: documents, letters, correspondence, e-mail, memoranda, notes, invoices, bulletins, calendars, diaries, contracts, agreements, letters, telegrams, minutes, reports, studies, checks, statements, receipts, vouchers, invoices, summaries, pamphlets, blueprints, specifications, drawings, sketches, interoffice and intraoffice communications, stenographic or handwritten notes of any sort of conversation, telephone calls, meetings or other communications, agendas, computer printouts, graphical records or representations of any kind (including without limitation photographs, charts, graphs, microfiche, microfilm, videotapes, recordings, and motion

pictures), electrical data compilation, electronic mail, computer files or documents, computer disks, computer programs, computer software, tapes and all other tangible things upon which any handwriting, typing, printing, drawing, representation, photocopy, magnetic, electrical or optical impulse, data, or other form of communication is stored, recorded, or reproduced, and preliminary drafts and non-identical copies of the above. The term also includes each and every file folder, folio or other material in which the above items are stored, filed, or maintained as well as every copy of such documents where the original is not in Your possession, custody or control, or where such copy is not an identical copy of an original or where such copy contains any commentary or notation whatsoever that does not appear in the original.

Instructions:

- Your attention is directed to Federal Rule of Civil Procedure 34(b)(i) (and (c)), which requires that documents be produced for inspection "as they are kept in the usual course of business or shall organize and label them to correspond with the categories of the request." In this connection, and for purposes of illustration, it is requested that all documents requested be produced in the file folders and cartons in which they have been maintained and stored, clipped, stapled or otherwise arranged in the same form and manner as they were found. If you choose to produce the documents requested corresponding with the categories in the request, it is requested that you identify the file folders, drawers or cartons in which the documents were originally maintained.
- Federal Rule of Civil Procedure 34(b)(ii) stipulates that electronically stored information must be produced "in a form or forms in which it is ordinarily maintained or in a form or forms that are reasonably usable."
- If any document requested herein was at one time in existence but has been lost, discarded or destroyed, identify such document as completely as possible, providing as much of the following information as possible:

1. the type of document;
2. the document's date;
3. the date or approximate date the document was lost, discarded or destroyed;
4. the circumstances under which and the manner in which the document was lost, discarded or destroyed;
5. the reason or reasons for disposing of the document (if discarded or destroyed);
6. the identity of all persons authorized or having knowledge of the circumstances surrounding disposal of the document;
7. the identity of the person(s) who lost, discarded, or destroyed the document; and
8. the identity of all persons having knowledge of the contents of the document.

Issued by the

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF **ILLINOIS**

Three Angels Broadcasting Network, Inc, and Danny Lee Shelton

V.

Gailon Arthur Joy and Robert Pickle

SUBPOENA IN A CIVIL CASE

Case Number:[1] 07-40098-FDS
District of Massachusett

TO: Alan Lovejoy, or Keeper of the records at Gray Hunter Stenn LLP, greetings!

☐ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

See Exhibit A

PLACE	DATE AND TIME
Sam C. Mitchell + Assoc., Lower Floor, 115 ½ E. Main St, West Frankfort, IL 62896	4/17/08 8:00 am

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
NORBERT G. JAWORSKI, Clerk by Deputy Clerk Brenda K Lowe	10/25/07

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER
U.S. District Court, 301 W. Main St., Benton, IL 62812
618-439-7761 (Brenda Lowe)

(See Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), on next page)

[1] If action is pending in district other than district of issuance, state district under case number.

EXHIBIT A

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified:

For documents created after January 1, 1998, that you have in your possession:

- All contracts, agreements, work papers, engagement letters, management letters, management representation letters, and/or other documents arising from any auditing services rendered to 3ABN, as defined herein.
- All contracts, agreements, tax returns, invoices issued to 3ABN, records of payments made to or received from 3ABN, whether direct or indirect, and/or any other accounting records or documents arising from any accounting or tax form preparation services rendered to 3ABN, as defined herein.
- All contracts, agreements, work papers, engagement letters, management letters, management representation letters, and/or other documents arising from any auditing services rendered to Danny Shelton, as defined herein.
- All contracts, agreements, tax returns, invoices issued to Danny Shelton, records of payments made or received, whether direct or indirect, and/or any other accounting records or documents arising from any accounting or tax form preparation services rendered to Danny Shelton, as defined herein.

Definitions:

- ***3ABN*** means Three Angels Broadcasting Network, Inc., Three Angels Broadcasting, Inc., Three Angles Broadcasting, Inc., Three Angel's Broadcasting School, Inc., Broadcast Communications Service, Inc., Three Angels TV & Radio Broadcasting Network (in Russia), Tres Anjos Broadcasting Network - LTDA (in Brazil), Association Three Angels Broadcasting Network (in Peru), 3ABN Philippines, Inc., Three Angels Enterprises, L.L.C., Crossbridge Music, Inc., 3ABN Books, 3ABN Music, 3ABN Radio, any names known or believed by you to be assumed by 3ABN, and/or any organizations, past or present, for profit or non-profit, which you believe or know that 3ABN has or has had control over.
- ***Danny Shelton*** means Danny Lee Shelton, D & L Publishing, DLS Publishing, and/or any other DBA's or organizations, past or present, which you believe or know that he has or has had control over, except 3ABN as defined herein.
- ***You*** means Alan Lovejoy, Gray Hunter Stenn LLP, and/or any employees thereof that have rendered services for 3ABN and/or Danny Shelton.
- ***Document*** shall have the broadest possible meaning permitted under applicable law, and shall include any written, recorded or graphic material of any kind, including the originals and all non-identical copies, including those materials in electronic form, that is or has been in your possession, and/or control or custody.

AO88 (Rev. 12/06) Subpoena in a Civil Case

Issued by the

UNITED STATES DISTRICT COURT

Central DISTRICT OF Massachusetts

Three Angels Broadcasting and Danny Shelton

V.

Gailon Arthur Joy and Robert Pickle

SUBPOENA IN A CIVIL CASE

Case Number:[1] 07-40098-FDS

TO: Bookkeeping Department of Century Bank & Trust,
Greetings!

☐ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME

☑ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

See Exhibit A attached hereto.

PLACE	DATE AND TIME
Office of Bob Pickle, 1354 County Highway 21, Halstad, MN 56548	1/10/2008 11:00 am

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
SARAH A. THORNTON, Sherry Jones	12-6-07

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

(See Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), on next page)

[1] If action is pending in district other than district of issuance, state district under case number.

EXHIBIT 5

EXHIBIT A

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified:

All monthly statements, deposit slips or copies thereof, and checks or copies thereof from January 1, 2003, onward to the present, for any account owned by, held in trust for, or for whom any of the following were signatories, for whatever months or parts thereof such was true: Danny Lee Shelton, D & L Publishing, DLS Publishing, Three Angels Broadcasting Network, Inc., Three Angel's Broadcasting School, Inc., Broadcast Communications Service, Inc., Crossbridge Music, Inc., Three Angels Enterprises, L.L.C., 3ABN, 3ABN Books, or any assumed name or name of a subsidiary of Three Angels Broadcasting Network, Inc. that includes the word "3ABN" or the words "Three Angels."

AO88 (Rev. 12/06) Subpoena in a Civil Case

Issued by the

UNITED STATES DISTRICT COURT

Central DISTRICT OF Massachusetts

Three Angels Broadcasting and Danny Shelton

V.

Gailon Arthur Joy and Robert Pickle

SUBPOENA IN A CIVIL CASE

Case Number:[1] 07-40098-FDS

TO: **Paula Capes, Jennifer Hengel,** Ann Duenow or Keeper of the Records of Midcountry Bank, Greetings!

☐ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME

☑ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

See Exhibit A attached hereto.

PLACE	DATE AND TIME
Office of Bob Pickle, 1354 County Highway 21, Halstad, MN 56548	1/10/2008 11:00 am

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
SARAH A. THORNTON, Sherry Jones	12-6-07

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

(See Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), on next page)

[1] If action is pending in district other than district of issuance, state district under case number.

EXHIBIT tabbies 6

EXHIBIT A

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified:

- All monthly statements, deposit slips or copies thereof, checks or copies thereof from January 1, 1998, onward to the present, for any account of any type owned by, held in trust for, or for whom any of the following were signatories, for whatever months or parts thereof such was true: Danny Lee Shelton (or Danny Shelton), D & L Publishing, DLS Publishing, or any assumed names of any corporations controlled by Danny Lee Shelton, including without limitation accounts owned by Crossbridge Music, Inc., but excluding accounts other than that of Crossbridge Music, Inc., if they are owned by Three Angels Broadcasting Network, Inc. and not Danny Shelton.

AO88 (Rev. 1/94) Subpoena in a Civil Case

Issued by the

UNITED STATES DISTRICT COURT

DISTRICT OF Minnesota

Three Angels Broadcasting
V.
Gailon Arthur Joy, et al

SUBPOENA IN A CIVIL CASE

Case Number:[1] 07cv40098
District of Massachusetts

TO: Ann Duenow, or Keeper of the Records of MidCountry Bank, Greetings!

☐ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

See Exhibit A

PLACE	DATE AND TIME
Office of Bob Pickle, 1354 County Hwy 21, Halstad, MN 56548	9:00 AM, 2/10/2008

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR	DATE
D. Bell - Deputy Clerk	12-12-07

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

U.S. District Court 300 S. 4th St. #202 Mpls, MN 55415

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on next page)

[1] If action is pending in district other than district of issuance, state district under case number.

EXHIBIT A

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified:

- All monthly statements from January 1, 1998, onward to the present, for any account of any type owned by, held in trust for, or for whom any of the following were signatories, for whatever months or parts thereof such was true: Danny Lee Shelton (or Danny Shelton) of West Frankfort or Thompsonville, Illinois, D & L Publishing (probably a DBA), DLS Publishing (incorporated in Nov. 2004), or Crossbridge Music, Inc. (incorporated in Nov. 2002).

AO88 (Rev. 12/06) Subpoena in a Civil Case

Issued by the

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

Three Angels Broadcasting Network et al. **SUBPOENA IN A CIVIL CASE**

V.

Gailon Arthur Joy and Robert Pickle

Case Number:[1] 07-40098-FDS

District of Massachus

TO: Kathi Bottomley, Greetings!

☐ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

See Exhibit A.

PLACE	DATE AND TIME
Office of Gery Friesen, 25118 Daisy Ave, Loma Linda, CA	June 2, 2008 9am

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
SHERRI R. CARTER	MAR 10 2008

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

CLERK

BY: _____ DEPUTY CLERK

(See Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), on next page)

312 N. SPRING ST.
LOS ANGELES, CA. 90012
(213) 894-2215

[1] If action is pending in district other than district of issuance, state district under case number.

EXHIBIT

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EXHIBIT A

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified:

1. Copies of correspondence, notes, faxes, emails, communications of any type, recordations, audio or video recordings, other electronic media, or any other documents that are authored by, sent to, received by, or handled by yourself, which were compiled, briefed, or summarized for, or otherwise disseminated to Walter Thompson, Danny Shelton, or Mollie Steenson, pertaining to:

   a) unfair dealings or breach of trust relating to trust and annuity beneficiaries;

   b) discrimination and/or retaliation by departmental management;

   c) any other complaints regarding the 3ABN Trust Services Department or its management; and

   d) your termination and subsequent appeal to the 3ABN Board.

2. Copies of correspondence, notes, faxes, emails, communications or reports of any type, recordations, audio or video recordings, other electronic media, or any other documents that are authored by, sent to, received by, or handled by yourself, which were compiled, briefed, or summarized for, or otherwise disseminated to the California Department of Fair Housing and Employment, the Internal Revenue Service, and the federal Equal Employment Opportunity Commission, or any of their investigators since March 2006.

3. Copies of correspondence, notes, faxes, emails, communications or reports of any type, recordations, audio or video recordings, other electronic media, or any other documents pertaining to perceived or real unethical, questionable, or illegal practices perpetrated by the 3ABN Trust Services Department, 3ABN Finance Department, or 3ABN Administration, and/or copies of any wills, annuities, stewardship instruments, or trusts written or altered by or on behalf of those departments that would or could be perceived or considered unethical, questionable, or illegal, according to the community, regulatory, or statutory standards such practices or agreements would ordinarily be subject to.

AO88 (Rev. 12/06) Subpoena in a Civil Case

Issued by the

UNITED STATES DISTRICT COURT

Western DISTRICT OF Virginia

Three Angels Broadcasting Network, Inc. and Danny Shelton
V.
Gailon Arthur Joy and Robert Pickle

SUBPOENA IN A CIVIL CASE

Case Number:[1] 07-40098-FDS
District of Massachusetts

TO: Glenn Dryden, pastor of Community Church of God, and president of the Ministerial Council of the Church of God

☐ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

See Exhibit A

PLACE	DATE AND TIME
137 Snapdragon Rd., Ruckersville, VA; or mail to Office of Bob Pickle, 1354 County Hwy 21, Halstad, MN 56548	6/12/08 9am

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
Sherry Taylor, Deputy Clerk	5/7/08

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER
Sherry Taylor, Deputy Clerk, US District Court-Roanoke, VA 540-857-5100

(See Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), on next page)

[1] If action is pending in district other than district of issuance, state district under case number.

EXHIBIT
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EXHIBIT A

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified:

1. Pictorial representations, including without limitation video recordings (preferably DVD's), of Tommy Shelton at a grand piano (which he took with him when he left) at the Community Church of God that depict sufficient detail to properly identify or assess its make, model, age, and condition.
2. Copies of correspondence, notes, communications of any type, claim statements, claim forms, recordations, audio or video recordings, or any other documents that are authored by, sent to, received by, or handled by yourself, or any officers, directors, or attendees of your congregation, whether past or present, or any person of interest, potential claimant, claimant, or alleged victim of Tommy Shelton, or any insurance carrier you have had, including without limitation Brotherhood Mutual Insurance Company, and that pertain to any misconduct, sexual or otherwise, by Tommy Shelton.
3. Copies of correspondence, notes, communications of any type, claim statements, claim forms, recordations, audio or video recordings, or any other documents that are authored by, sent to, received by, or handled by yourself, or any officers, directors, or attendees of your congregation, whether past or present, or any credentials committee or the equivalent or members thereof, and that pertain to the reasons, whether official or unofficial, for Tommy Shelton's ceasing to serve as the pastor of your congregation, that pertain to any investigations into his conduct, or that pertain to the considered or actual suspension or revocation of his ordination or license.
4. Copies of correspondence, notes, communications of any type, claim statements, claim forms, recordations, audio or video recordings, or any other documents that are authored by, sent to, received by, or handled by yourself, or any officers, directors, or attendees of your congregation, whether past or present, that pertain to threats of litigation or other forms of intimidation by Danny Shelton, Tommy Shelton, any of their relatives, 3ABN or any of its directors, officers, employees, or personnel, or attorneys representing 3ABN or any of these individuals.

UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

Three Angels Broadcasting Network, Inc., an Illinois non-profit corporation, and Danny Lee Shelton, individually,

Plaintiffs,

v.

Gailon Arthur Joy and Robert Pickle,

Defendants.

Case No. 0:08-mc-7

NOTICE OF MOTIONS AND MOTIONS BY PLAINTIFF DANNY SHELTON TO QUASH SUBPOENA *DUCES TECUM* OR, IN THE ALTERNATIVE, FOR PROTECTIVE ORDER, AND TO STAY AND REMIT ENFORCEMENT OF SUBPOENA *DUCES TECUM* OR, IN THE ALTERNATIVE, TO APPOINT A SPECIAL MASTER

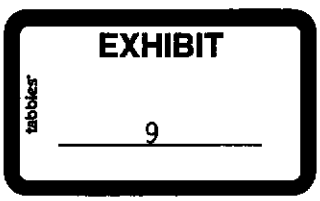
TO: Defendant Robert Pickle, *pro se*, 1354 County Highway 21, Halstad, MN 56548

NOTICE OF MOTIONS

PLEASE TAKE NOTICE that on a day and time to be determined by the Court, the undersigned counsel for Plaintiff Danny Shelton will on his behalf bring a Motion to Quash Subpoena *Duces Tecum* or, in the Alternative, for Protective Order, and a Motion to Stay and Remit Enforcement of Subpoena *Duces Tecum* or, in the Alternative, to Appoint a Special Master.

MOTIONS

Pursuant to Federal Rules of Civil Procedure 26(c) and 45(c)(3), Plaintiff Danny Shelton moves for an Order quashing the subpoena served by Defendant Robert Pickle



upon MidCountry Bank or, in the alternative, for a protective order governing information produced by MidCountry Bank in response to said subpoena.

Further, pursuant to Federal Rules of Civil Procedure 26(c), 45(c)(3) and 53, Plaintiff Danny Shelton moves for an Order staying enforcement of the above-referenced subpoena and remitting the discovery dispute arising from said subpoena to the United States District Court for the District of Massachusetts or, in the alternative, appointing a special master from that Court.

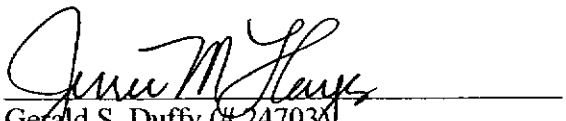
These motions are based upon Plaintiff's Memorandum in Support of Motion to Quash Subpoena *Duces Tecum* or, in the Alternative, for Protective Order, and in Support of Motion to Stay and Remit Enforcement of Subpoena *Duces Tecum* or, in the Alternative, to Appoint a Special Master, and upon all affidavit(s) filed and served therewith.

Dated: February 6, 2008.

Respectfully Submitted,

Attorneys for Plaintiffs Three Angels Broadcasting Network, Inc. and Danny Shelton

SIEGEL, BRILL, GREUPNER, DUFFY & FOSTER, P.A.



Gerald S. Duffy (# 24703)
Wm. Christopher Penwell (#161847)
Jerrie M. Hayes (#282340)
Kristin L. Kingsbury (#346664)
1300 Washington Square
100 Washington Avenue South
Minneapolis, MN 55401
(612) 337-6100
(612) 339-6591 - Facsimile

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

THREE ANGELS BROADCASTING NETWORK, INC., AN ILLINOIS NON-PROFIT CORPORATION, AND DANNY LEE SHELTON, INDIVIDUALLY,

PLAINTIFFS,

V.

GAILON ARTHUR JOY AND ROBERT PICKLE,

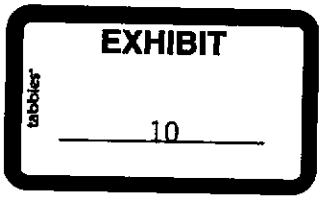
DEFENDANTS.

CASE NO. 08-MC-7 (RHK/AJB)

ORDER

This matter is before the Court, United States Magistrate Judge Arthur J. Boylan, on Plaintiff Danny Shelton's Motion to Quash Subpoena *Duces Tecum* [Docket No. 1] and Defendants' Motion to Dismiss Plaintiff Danny Shelton's Motion to Quash Subpoena *Duces Tecum* [Docket No. 12]. A hearing was held on March 4, 2008, in the United States District Courthouse, 180 East Fifth Street, St. Paul, MN, 55101. Jerrie M. Hayes, Esq., represented Plaintiffs. Gailon Arthur Joy and Robert Pickle appeared *pro se* by telephone.

Based upon the record, memoranda, and oral arguments of counsel, **IT IS HEREBY ORDERED** that Plaintiff Danny Shelton's Motion to Quash Subpoena [Docket No. 1] is **DENIED** and Defendants' Motion to Dismiss Plaintiff Danny Shelton's Motion to Quash Subpoena [Docket No. 12] is **DENIED AS MOOT**.



IT IS FURTHER ORDERED that:

1. Defendant Robert Pickle shall pay MidCountry Bank's reasonable costs in responding to the subpoena; and

2. Upon payment of its costs by Defendant Robert Pickle, MidCountry Bank shall send all documents falling within the scope of the subpoena, **under seal** directly to:

U.S. Magistrate Judge Timothy S. Hillman
United States District Court
District of Massachusetts
Donohue Federal Building & U.S. Courthouse
595 Main Street
Worcester, MA 01608

3. MidCountry Bank shall not provide copies of the documents to any party herein absent further order of the court.

Dated: March 28, 2008

s/ Arthur J. Boylan
Arthur J. Boylan
United States Magistrate Judge

MEMORANDUM

This Court has been advised by the parties that Plaintiffs' Motion for a Protective Order has been taken under advisement by Magistrate Judge Hillman in the District of Massachusetts. Once the Protective Order is entered by the court, the documents produced under seal by MidCountry Bank in response to Defendant Pickle's subpoena in this district may be reviewed by Magistrate Judge Hillman

for compliance with the approved Protective Order. This Order shall not preclude the parties from seeking relief from Magistrate Judge Hillman as to the disclosure of the documents produced pursuant to the MidCountry Bank subpoena.

AJB

UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

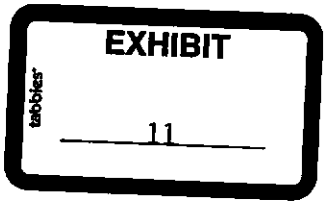
Three Angels Broadcasting Network, Inc., an Illinois non-profit corporation, and Danny Lee Shelton, individually, Plaintiffs, v. Gailon Arthur Joy and Robert Pickle, Defendants.	Case No.: 08-mc-7 (RHK/AJB)

DEFENDANT ROBERT PICKLE'S MEMORANDUM IN SUPPORT OF HIS MOTION TO AMEND ORDER

An Order was issued from this Court on March 28, 2008, ordering the production of records subpoenaed by the Defendants from MidCountry Bank, N.A. (hereafter "MidCountry"). See Document #28. Production was to be made under seal to Magistrate Judge Hillman of the District of Massachusetts to accommodate the pending protective order Magistrate Judge Hillman was soon to issue. Id.

Magistrate Judge Hillman's confidentiality order was issued on April 17, 2008. See Affidavit of Robert Pickle (hereafter "Pickle Aff."), Ex. A. This confidentiality order renders obsolete the provisions of this Court's Order to produce the subpoenaed documents under seal to Magistrate Judge Hillman.

The Defendants asked the Honorable Judge Saylor of the District of Massachusetts in their status conference of May 7, 2008, to allow the subpoenaed documents to be produced directly to the Defendants, and he referred them back to the District of Minnesota. See Pickle



Aff., ¶ 2.

Grounds for dispute regarding production are limited by the confidentiality order to questions of whether production in redacted or other form will be satisfactory, or whether documents containing confidential information will be produced in their entirety. See Pickle Aff., Ex. A, § 1. If agreement cannot be reached, the specified remedy is for the requesting party to move to compel the responding party. Id.

MidCountry intends to comply with the subpoena in question. See Document #4, ¶ 12. MidCountry is the responding party, and MidCountry has never made an issue of its records needing to be redacted. Thus there is no need to file a motion to compel MidCountry.

There is no provision in the confidentiality order whereby a party may either a) prevent the production of documents by third parties, or b) force third-party subpoenaed documents to be produced under seal whereby the requesting party cannot review those documents.

For these reasons, Defendant Pickle respectfully requests this Court to amend its order of March 28, 2008, to allow the subpoenaed records of MidCountry Bank to be produced directly to the office of Defendant Pickle, with those documents being subject to the confidentiality order issued on April 17, 2008, by Magistrate Judge Hillman in the underlying case.

Respectfully submitted,

Dated: June 2, 2008

s/ Robert Pickle, *pro se*
Robert Pickle, *pro se*
Halstad, MN 56548
Tel: (218) 456-2568
Fax: (206) 203-3751

In compliance with local Rule 7.1(c), I hereby certify that this Memorandum is about 353 words.

s/ Bob Pickle
Bob Pickle

UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

Three Angels Broadcasting Network, Inc., an Illinois non-profit corporation, and Danny Lee Shelton, individually,

Plaintiffs,

v.

Gailon Arthur Joy and Robert Pickle,

Defendants.

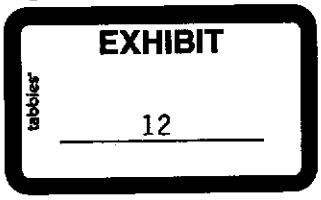
Case No.08-MC-7 (RHK/AJB)

PLAINTIFF DANNY SHELTON'S MEMORANDUM IN OPPOSITION TO DEFENDANT'S MOTION TO AMEND ORDER

INTRODUCTION

Plaintiff Danny Shelton opposes Defendant Robert Pickle's Motion to Amend the Order of this Court issued on March 28, 2008 [ECF Doc. 28], which ordered that the response to Pickle's third-party subpoena served on MidCountry Bank, N.A., be produced **under seal** to the Massachusetts court in which the underlying case is venued. Pickle wants to receive the documents directly, thereby frustrating the Court's intention to allow the Massachusetts court to review the documents first and to figure out which ones should be seen by the Defendants.

Pickle's motion "to amend" is in substance a motion to reconsider governed by D. Minn. LR 7.1(g), and as such should be denied because (1) he failed to obtain leave of the Court per the procedure under that rule; and (2) there are no



"compelling circumstances" that would justify modifying this Court's March 28 Order.

FACTS

The background facts are set forth in Plaintiff's original motion papers [ECF Docs. 1-4] and will not be repeated here, except to say in summary that the underlying lawsuit has a defamation count arising out of statements made by the Defendants about the Plaintiffs on their various internet forums, and that by no stretch of logic could the statements that underlie the defamation claims make *all* of Plaintiff Shelton's bank records since 1998 relevant. It is within the Defendants' power to say which transactions they based their allegedly defamatory remarks on, in which case those records could be readily identified and produced for inspection. Instead, Defendants have turned the litigation into a fact-finding spree to investigate *all* of Plaintiffs' financial transactions, apparently hoping to find something embarrassing or at least hard to explain.

The Court is aware that Plaintiffs had filed a Motion for Protective Order on December 18, 2007, seeking to preclude discovery of Plaintiffs' confidential donor information and seeking to preclude the disclosure, dissemination or publication of the parties' confidential or proprietary financial, business and operational information to third-parties. [ECF Doc. 40, Hayes Aff., Ex. H]. Ultimately the Massachusetts court issued a "Confidentiality and Protective Order" on April 17, 2008 that did not address the scope of discovery issue. (*See* Exhibit A to the Affidavit of Robert Pickle [ECF Doc. 31]). Instead, it merely

created a procedure for the parties to follow to designate materials produced by parties and non-parties as confidential.

The Massachusetts Judge, F. Dennis Saylor, then called a status conference. (Affidavit of M. Gregory Simpson, Ex. A – Affidavit of Jerrie M. Hayes at ¶ 26). At the conference on May 7, 2008, the parties discussed the fact that they were negotiating regarding the permitted scope of discovery, and that those negotiations had not yet reached an impasse or an agreement. (*Id.*). Then-counsel for the Plaintiffs, Jerrie Hayes, informed the Court that she anticipated the filing of a Motion for Protective Order to limit the scope of discovery. (*Id.*) Defendants, who were both in attendance, made no objection to these characterizations and did not claim they had satisfied the good faith requirements of the discovery rules concerning the relevance objections. (*Id.*). Plaintiffs contemplate they will file a motion in the Massachusetts court to limit the scope of discovery, which will address the MidCountry documents at issue here, within one week of this filing. (Simpson Aff. ¶ 3).

ARGUMENT

PICKLE'S MOTION SHOULD BE DISMISSED AS AN IMPROPER MOTION TO RECONSIDER.

As a threshold matter, Defendant Pickle's motion should be rejected as an improper motion to reconsider. Local Rule 7.1(g) states:

> Motions to reconsider are prohibited except by express permission of the Court, which will be granted only upon a showing of compelling circumstances. Requests to make such a motion, and responses to such requests, shall be made

> by letter to the Court of no more than two pages in length, a copy of which must be sent to opposing counsel.

D.Minn.LR 7.1(g). The Court will grant motions to reconsider "only upon a showing of compelling circumstances." *Transclean Corp. v. Bridgewood Servs., Inc.*,134 F. Supp. 2d 1049, 1060 (D. Minn. 2001). A motion to reconsider under LR 7.1(g) is the functional equivalent of a motion to alter or amend the judgment under Rule 59(e), Fed. R. Civ. P. *DuBose v. Kelly,* 187 F. 3d 999, 1002 (8th Cir. 1999). The Court allows such motions to "afford an opportunity for relief in extraordinary circumstances," not to relitigate old issues. *Dale & Selby Superette & Deli v. United States Dep't of Agric.,* 838 F. Supp. 1346, 1348 (D. Minn. 1993). Motions for reconsideration therefore serve a limited function:

> to correct manifest errors of law or fact or to present newly discovered evidence. Such motions cannot in any case be employed as a vehicle to introduce new evidence that could have been adduced during pendency of the summary judgment motion. The nonmovant has an affirmative duty to come forward to meet a properly supported motion for summary judgment. . . . Nor should a motion for reconsideration serve as the occasion to tender new legal theories for the first time.

Hagerman v. Yukon Energy Corp., 839 F.2d 407, 414 (8th Cir. 1988).

As a threshold matter, Pickle's motion should be denied due to his failure to obtain "express permission of the Court" by means of a letter to the Court, as required by Rule 7.1(g). Pickle made no effort to comply with the rule, his motion is procedurally deficient, and his motion should be denied without reaching the merits.

If the Court were to reach the merits of Pickle's motion, the narrow issue would be whether the Massachusetts court's issuance of a protective order on April 17, 2008, is a "compelling circumstance" that justifies reconsideration of the Court's March 28 Order. It is hard to see how an event that this Court contemplated in its ruling could be a compelling reason to revise the very same ruling. This Court's memorandum states:

> This Court has been advised by the parties that Plaintiffs' Motion for a Protective Order has been taken under advisement by Magistrate Judge Hillman in the District of Massachusetts. Once the Protective Order is entered by the court, the documents produced under seal by MidCountry Bank in response to Defendant Pickle's subpoena in this district may be reviewed by Magistrate Judge Hillman for compliance with the approved Protective Order. This Order shall not preclude the parties from seeking relief from Magistrate Judge Hillman as to the disclosure of the documents produced pursuant to the MidCountry Bank subpoena.

[ECF Doc. 28 at p. 3]. Because the Court knew that Judge Hillman would at some point address the issues of relevancy and confidentiality, it deferred those issues to Judge Hillman. The Court contemplated the Protective Order that issued in Massachusetts, and it therefore does not constitute "compelling circumstances" such as would justify revisiting the Court's Order. Pickle's motion should be denied on this basis as well.

CONCLUSION

Defendant Pickle's motion to amend is a motion for reconsideration governed by D.Minn.LR 7.1(g), and as such fails due to Pickle's failure to obtain

leave of the Court to file the motion and because no "compelling circumstances" exist to revisit the Court's March 28 Order. Plaintiffs respectfully request that Pickle's motion be denied.

Dated: June 18, 2008.

By: s/M. Gregory Simpson

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Attorneys for Three Angels Broadcasting, Inc. and Danny Shelton

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

Three Angels Broadcasting Network, Inc., an Illinois non-profit corporation, and Danny Lee Shelton, individually,

Plaintiffs,

vs.

Case No.: 1:08-mc-03

Gailon Arthur Joy and Robert Pickle,

Defendants.

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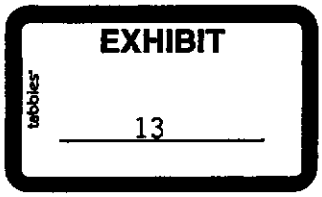
RESPONSE TO DEFENDANTS' MOTION TO COMPEL REMNANT PUBLICATIONS



NOW COMES Remnant Publications, Inc., by and through its attorneys, Biringer, Hutchinson, Lillis, Bappert & Angell, P.C., by Charles R. Bappert, and responds to Defendants' Motion to Compel as follows:

Remnant Publications, Inc., denies that the information sought by Defendants is relevant to the underlying lawsuit between Danny Lee Shelton, Three Angels Broadcasting Network, and defendants. Furthermore, Remnant Publications, Inc., asserts that defendants' methods of discovery are overbroad, burdensome, and seek confidential business and financial documents. In addition, defendants could obtain this information from more convenient sources – namely, the plaintiffs in the case. Finally, defendants are seeking discovery from Remnant Publications, Inc., a non-party to the lawsuit, in an effort to support allegations they made against the plaintiffs without any basis or knowledge for those allegations.

WHEREFORE, Remnant Publications, Inc., requests that this Court act as follows:

A) Deny defendants' Motion to Compel and award Remnant Publications, Inc., reasonable expenses in responding to this motion pursuant to Fed. R. Civ. P. 37(a)(5)(B), or

B) In the alternative, direct a protective order to be put in place to preserve the confidentiality of any documents obtained pursuant to Fed. R. Civ. P. 26(c), as this same motion is being put forth by plaintiffs in the United States District Court for the District of Massachusetts.

Respectfully submitted,

Dated: May 19, 2008

/s/ Charles R. Bappert

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF ILLINOIS

Three Angels Broadcasting Network, Inc., an Illinois non-profit corporation, and Danny Lee Shelton, individually,

Plaintiffs,

v.

Gailon Arthur Joy and Robert Pickle,

Defendants.

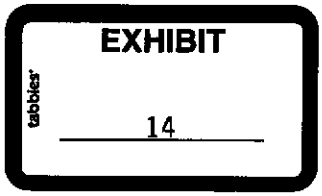
Case No. 08-MC-16

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' MOTION TO QUASH, MODIFY OR STAY SUBPOENA *DUCES TECUM*

INTRODUCTION

Plaintiffs Three Angels Broadcasting Network, Inc ("3ABN") and Danny Lee Shelton bring this motion to quash, modify or stay the subpoena *duces tecum* issued by this Court on December 28, 2007 and served by *pro se* Defendants Robert Pickle and Gailon Joy upon "Alan Lovejoy or Keeper of the Records at Gray Hunter Stenn LLP" ("Gray Hunter"). This motion is brought in the Court from which the subpoena issued because Fed. R. Civ. P. 45 (c)(3) contemplates that motions to quash subpoenas be brought before the "issuing" court. *See also* Fed. R. Civ. P. 37(a)(2) (motion for an order to a nonparty is made in the court where discovery is or will be taken).

The issues raised herein will also be brought before the Court in which the case is pending, in Massachusetts, as part of a broader motion to control and curtail third party discovery activities and restrict the scope of permissible discovery to issues in the case.



Plaintiffs request that the Court quash the subpoena or, in the alternative, order that Gray Hunter's response to the subpoena be deferred until the Massachusetts court has an opportunity to consider the matter.

INTRODUCTION

The subpoena was apparently served on March 17, 2008. Lovejoy is 3ABN's outside accountant, and Gray Hunter is his firm. The subpoena seeks all of Gray Hunter's records regarding 3ABN and Danny Shelton from 1998 to present. It was issued in connection with litigation pending in the United States District Court for the District of Massachusetts captioned *Three Angels Broadcasting Network, Inc. and Danny Lee Shelton v. Gailon Arthur Joy and Robert Pickle* (No. 07-40098-FDS (D. Mass.)). Gray Hunter had initially objected to the subpoena and refused to comply, but now advises that it will produce all responsive documents because it does not wish to incur the expense of defending against a motion to enforce the subpoena.

Defendants' cover letter explaining the purpose of the subpoena indicates that the requested information is necessary for two reasons: (1) to respond to discovery requests served by Plaintiffs on Defendants; and (2) to defend against three factual allegations contained in Paragraph 46 of the Complaint involving several specific financial transactions. Manifestly, these reasons do not support the scope of the requests, which extend to every financial record of 3ABN and Danny Shelton since 1998. Plaintiffs submit that Defendants seek this information as part of a wide-ranging fishing expedition for unknown misdeeds by the Plaintiffs, which nobody has reason to believe occurred, and not for any purpose related to the litigation at hand.

STATEMENT OF RELEVANT FACTS

On April 6, 2007, Plaintiffs Three Angels Broadcasting Network and its founder, Danny Lee Shelton, filed a lawsuit in the United States District Court for the District of Massachusetts against Gailon Joy and Robert Pickle (collectively "Defendants"). (*See* Exhibit B to the Affidavit of M. Gregory Simpson, (hereafter "Simpson Aff."), attached as Exhibit 1 to this memorandum). The Complaint alleges that, by registering, operating and maintaining internet websites that improperly incorporate Three Angel's trademarked moniker "3ABN" in the websites' domain names, URL's, metatags, and promotional materials, Defendants Pickle and Joy have violated the Lanham Act and caused Plaintiffs damages. *Id.* The Complaint also claims that Defendants have used their infringing websites, as well as other mediums, to engage in a campaign of disparagement and defamation of the Plaintiffs, which activity by Defendants has damaged Plaintiffs' reputations, goodwill, and economic donor relations. Defendants answered by denying the allegations of the Complaint and made no counterclaims or third-party complaints. (Ex. C to Simpson Aff.).

On April 17, 2008, the Massachusetts Court issued a "Confidentiality and Protective Order" establishing a procedure for designating as Confidential all documents produced in discovery in this case, including documents produced by third parties. (Ex. D to Simpson Aff.). The court's order does not address the topic of what scope of discovery should be permitted, but merely provides a procedure for designating material that is produced as confidential.

The instant Subpoena was signed and issued by the Clerk of this Court on December 28, 2007 to "Alan Lovejoy or Keeper of the Records at Gray Hunter Stenn

LLP", a non-party to the underlying litigation. (Ex. A to Simpson Aff.). The subpoena seeks every imaginable record obtained or generated by Gray Hunter in connection with its accountancy services for 3ABN and Danny Shelton dating back to 1998. For example, it seeks "All contracts, agreements, work papers, engagement letters, management letters, management representation letters, and/or other documents arising from any auditing services rendered to 3ABN, as defined herein." Another request seeks every tax record of 3ABN. Identical requests seek the same information for Danny Shelton. No effort is made to restrict the requests to matters raised in the Complaint and Answer.

A cover letter accompanying the subpoena explains Defendants' theory as to why the documents are necessary for the litigation. (Ex. E to Simpson Aff.). The letter quotes three subparagraphs from the complaint, as follows:

> 46. Gailon Joy and Robert Pickle have published numerous untrue statements that 3ABN and its President Danny Shelton have committed financial improprieties with donated ministry funds. Among those untrue statements made by Joy and Pickle are, *inter alia,* that:
>
> * * *
>
> e. The 3ABN Board of Directors has failed in its responsibilities to oversee and manage 3ABN's financial assets....
>
> g. 3ABN Board members have personally enriched themselves as officers and directors of 3ABN in violation of the Internal Revenue Code.
>
> h. Danny Shelton wrongfully withheld book royalties from 3ABN and refused to disclose those royalties in proceedings before a court of law related to the distribution of marital assets.

Defendants' cover letter then posits two reasons for the subpoena:

> We have also been asked to describe under oath what "accounting process" we "conclude 3ABN failed to set up" "to account for sums gifted."
>
> In preparing our defense against these and other allegations, we need to examine various financial documents concerning Danny Shelton, 3ABN, their DBA's, and the corporations they have jointly or separately controlled....

Gray Hunter Stenn's counsel confirmed their receipt of the subpoena on March 17, 2008. (Simpson Aff. ¶ 6). Gray Hunter timely objected to the subpoena on a number of bases, but recently withdrew their objections and have advised that on June 24, 2008, they intend to comply with the subpoena with no restrictions, other than that all documents produced will be designated as "Confidential" under the Protective Order issued by the court in Massachusetts. (Simpson Aff. ¶ 6).

The subpoena seeks the same information as has been requested in Defendant Pickle's Requests for Production of Documents, request numbers 9, 10, 11 and 12, 21, 22, 25, and 26, except that those requests were more narrowly tailored. (Ex. F to Simpson Aff.).

A motion to restrict the scope of permissible discovery, including the third party discovery at issue in this motion, is being prepared at this moment. Plaintiffs expect that the motion will be on file in the Massachusetts court in which this case is pending by the time the present motion is heard. (Simpson Aff. ¶ 8).

ARGUMENT

I. THE SUBPOENA SHOULD BE QUASHED OR MODIFIED.

Under the Federal Rules, a court *must* quash or modify a subpoena if it "subjects a person to undue burden." Fed. R. Civ. P. 45(c)(3)(A). A court *may* quash or modify a subpoena "to protect a person subject to or affected by the subpoena" if it requires

disclosing a trade secret or other confidential commercial information. Fed. R. Civ. P. 45(c)(3)(B). A subpoena of third party accounting records must request records that exhibit a nexus to the issues in the complaint. *See Federal Deposit Ins. Corp. v. Mercantile Nat'l Bank of Chicago*, 84 F.R.D. 345, 350 (N. D. Ill. 1979) (ordering plaintiff to modify subpoena of accounting records and submit to court for approval). Accordingly, the Court should quash the Subpoena or enter a protective order prohibiting or limiting the discovery or disclosure sought therein.

A. Plaintiffs Have Standing to Object to the Subpoena

The Subpoena demands production of Plaintiffs tax and accounting records retained by an outside accounting firm. When a party has "a personal right or privilege with respect to the subject matter being requested in the subpoena," that party has standing to dispute the enforceability of the subpoena. *QC Holdings, Inc. v. Diedrich*, No. 01-2338-KHV, 2002 WL 324281, at *1 (D. Kan. Feb. 21, 2002). A party has a clear privacy interest in its own financial and banking affairs that gives it standing to make a motion to quash a subpoena served on a non-party financial institution. *Arias-Zeballos v. Tan*, No. 06-1268-GEL, 2007 WL 210112, at *1 (S.D.N.Y. Jan. 25, 2007); *see also Schmulovich v. 1161 Rt. 9 LLC*, No. 07-597-FLW, 2007 WL 2362598, at *2 (D.N.J. Aug. 15, 2007)(holding that personal rights claimed with respect to bank accounts gave standing to challenge a non-party subpoena served upon a financial institution). 3ABN and Danny Shelton clearly have a right with respect to their own financial records retained by their accounting firm; thus, Plaintiffs have standing to object to the Subpoena.

B. The Subpoena is Unduly Burdensome and Must be Quashed

1. The Subpoena Seeks Information from a Non-Party that Could and Should be Sought from a Party.

Federal Rule of Civil Procedure 45(c)(3)(A) requires a court to quash or modify a subpoena if it causes a person undue burden. When a court evaluates the necessity for a subpoena, it must give special weight to any burden placed upon a non-party to the litigation. *See Cusamano v. Microsoft Corp.*, 162 F.3d 708, 717 (1st Cir. 1998)(citing *Haworth, Inc. v. Herman Miller, Inc.*, 998 F.2d 975, 978 (Fed. Cir. 1993)). It is well settled that the discovery process should not seek to burden non-parties without a showing that the material requested was wholly unavailable from the party in the main litigation. *Haworth*, 998 F.2d at 977.

Both Defendant Pickle's Requests for Production of Documents and the instant Subpoena seek the exact same financial records for 3ABN and Danny Shelton, except that the Subpoena makes no pretense of limiting its scope to relevant material. By failing to first exhaust their efforts to obtain the materials through party-discovery, and instead seeking the documents and information from Gray Hunter, Defendants are forcing a third party to undertake discovery activities for them, and are placing unnecessary responsibility for party-discovery on a non-party. This creates an unreasonable and undue burden for a non-party. Defendants should be required to exhaust all means of obtaining such information from Plaintiffs before resorting to third party discovery. The Subpoena is unduly burdensome and, according to Federal Rule 45, must be quashed, leaving the issues of confidentiality and relevance to be heard in their proper discovery forum.

2. The Subpoena Is Overly Broad

The Federal Rules permit discovery of non-privileged material "relevant to any party's claim or defense." Fed. R. Civ. P. 26(b). The scope of discovery under a subpoena is the same as the scope under Rule 26(b). *See 9A Wright and Miller, Federal Practice and Procedure, § 2459 (2d ed. 1995).* Thus, in making a determination as to whether a subpoena subjects a person to undue burden under Rule 45(c)(3)(A), a court must examine whether a subpoena is overly broad or contains a request for irrelevant information. *See id.* In addition to breadth and relevance, an evaluation of undue burden should include the court's consideration of the party's need for the documents, the time period covered by the request, and the particularity with which the documents are described. *Moon v. SCP Pool Corp.*, 232 F.R.D. 633, 637 (C.D.Cal. 2005). The instant Subpoena is unduly burdensome because it is overly broad on its face and because it subjects Plaintiffs to an invasion of privacy.

A Subpoena that is facially overbroad is unduly burdensome. *See Linder v. Calero-Portocarrero,* 180 F.R.D. 168, 174 (D.D.C. 1998); *see also Mattel, Inc. v. Walking Mountain Productions*, 353 F.3d 792, 813-14 (quashing a non-party subpoena that was "way too broad" and included no "attempt to tailor the information request to the immediate needs of the case."). The Subpoena at issue is overly broad on its face and amounts to nothing more than a shot into darkness, aimed at finding some financial 'skeleton' with which Defendants might embarrass, harass and further impugn Plaintiffs.

First, the Subpoena requests accounting records dating back to 1998 when, in fact, the earliest occurrence of any event that might arguably be considered relevant to the Plaintiffs' claims is 2001. [*See* underlying Complaint and Answer, and Exs. A and B to

Simpson Aff.]. The Subpoena is overly broad on its face by seeking financial records from *years* before the facts giving rise the underlying litigation took place.

Second, the Subpoena requests 3ABN's and Shelton's personal accounting information and tax returns, when the financial condition of the Plaintiffs is not at issue in the underlying litigation, when Plaintiff Shelton is not claiming to have suffered personal financial damages, and when Defendants have done nothing to prove 3ABN's or Shelton's financial affairs are relevant to either the trademark or defamation claims. Production of Plaintiffs' private and confidential accounting and tax records serves no purpose other than to embarrass, oppress and invade their privacy.

Finally, no attempt was made, in causing the Subpoena to issue, to tailor the information and document requests to any specific needs relating to the underlying litigation. By his blanket subpoena exhibit seeking all accounting and tax records of the Plaintiffs, Defendants have failed to describe the documents sought with particularity or to even specify the information requested by category. Both Rules 45(c) and 26(b) prohibit such an abuse of the discovery process.

The Defendants' stated reasons for seeking the accounting records, from their cover letter (Ex. E to Simpson Aff.), are manifestly inadequate. First, Defendants state they need the records to respond to discovery served *on them.* Parties responding to discovery are only required to produce what is in their custody or control, and the notion that a party who lacks information sought in discovery can use Rule 45 to get the information from others is novel, but not supportable. Obviously, records of a third party are not required to respond to discovery requests seeking information in the possession of a party.

The second reason Defendants suggest as a justification for the accounting records is that they relate to paragraph 46 of the Complaint, in which Plaintiffs allege that Defendants' accusations of financial self-dealing are defamatory. There are a limited number of transactions that Defendants allege to have been improper, and Defendants' cover letter (Ex. E to Simpson Aff.) states that Defendants already have documentation of them from 1998 onward. Defendants are entitled to evidence reasonably calculated to help them prove the truth of their remarks regarding those specific transactions, but review of *all* of the Plaintiffs' financial records is manifestly not necessary for that purpose. What Defendants are in fact hoping for is to discover some previously unknown financial impropriety – an obviously improper purpose.

The Subpoena is unduly burdensome because it is overly broad on its face and fails to describe, by category or document, the information sought. The Subpoena is unduly burdensome to Plaintiffs because it subjects them to an invasion of their privacy that is unwarranted by the claims in the underlying action. Pursuant to Rule 45, the Subpoena must be quashed.

II. THE COURT SHOULD STAY AND REMIT ENFORCEMENT OF THE SUBPOENA TO THE UNITED STATES DISTRICT COURT IN MASSACHUSETTS

A. The Court has Discretion to Stay and Remit Enforcement of the Subpoena

The Court from which the instant Subpoena issued has jurisdiction to resolve Plaintiffs' motion to quash. *See* Fed. R. Civ. P. 45(c)(3); Fed. R. Civ. P. 37(a)(2). This Court also has the ability to stay enforcement of the Subpoena and to remit the discovery dispute to the District of Massachusetts, which has jurisdiction over the underlying

litigation. *See Floorgraphics, Inc. v. News American Marketing In-Store Services, Inc.*, No. 07-27 (PJS/RLE), 2007 WL 1544572, at *2 (D. Minn.).

"In the context of Rule 45, 'remit' does not denote a literal transference of a Motion, but rather, a deferral of a ruling until the Court responsible for the underlying action has an occasion to address the issue." *Id.* (citing *In re Sealed Case*, 141 F.3d 337 (Fed. Cir. 1998)); *see also In re Digital Equipment Corp.*, 949 F.2d 228, 231 (8th Cir. 1991)(stating that the court with initial jurisdiction over an objection may, in its discretion, remit the matter to the court where the action is pending); *In re Orthopedic Bone Screw Products Liability Litigation,* 79 F.3d 46, 48 (7th Cir. 1996)(rejecting the "transfer" of discovery disputes but advocating stays in courts where discovery is being conducted with the filing of motions for protective orders in the court where the underlying litigation is pending). Because Plaintiffs are seeking a ruling on the permissible scope of third party discovery in the District of Massachusetts that is directly related to its objections to the instant Subpoena, deferring to that court's resolution of the discovery dispute is soundly within this Court's discretion.

B. Deferral to the Massachusetts Court is Appropriate

Although Federal Rule of Civil Procedure 45 requires the court that issued the subpoena to govern its enforcement, the "concept that the district court in which an action is pending has the right and responsibility to control the broad outline of discovery" remains unchanged. *Static Control Components, Inc. v. Darkprint Imaging*, 201 F.R.D. 431, 434 (M.D.N.C. 2001)(citing *Fincher v. Keller Industries, Inc.*, 129 F.R.D. 123, 125 (M.D.N.C. 1990)). A party's discovery rights in one district should reach no further than they do in the district having jurisdiction over the action. *Id.*

In accordance with the above authority, an Order staying enforcement of the Subpoena and remitting the discovery dispute to the District of Massachusetts will help to ensure uniformity. One or both Defendants have caused at least five subpoenas to be served upon non-parties in various districts to date. Given these numerous and extensive demands, a failure to stay and remit would likely result in the creation of inconsistent parameters for Defendants' discovery from other non-parties.

Remitting the discovery dispute to the court having jurisdiction over the underlying action promotes judicial efficiency by allowing this Court to avoid having to learn a record that is already well-known in another District. That court "is more familiar with the factual and legal issues underlying [the] cause of action and is in a better position to rule on the relevancy, undue burden and confidentiality of the [discovery] requests within the totality of the circumstances surrounding [the] litigation." *In re Schneider Nat'l Bulk Carriers,* 918 F. Supp. 272, 274 (E.D. Wis. 1996)). The District of Massachusetts is quite familiar with the parties and discovery in the litigation underlying this Subpoena. A decision by this Court not to defer to the District of Massachusetts' expertise in this particular action would waste judicial time and resources.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court issue an order quashing Defendants' December 28, 2007 subpoena *duces tecum* or, in the alternative, order the response to the subpoena be deferred until the Massachusetts court in which the underlying action is pending has an opportunity to rule upon the matter.

Dated: June 16, 2008.

Respectfully Submitted,

Three Angels Broadcasting Network, Inc.,
and Danny Lee Shelton

By: /s/ Jennifer E. White
One of Their Attorneys

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Jennifer E. White (ARDC #6275527)
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-and-

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CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that on June 16, 2008, she served this **MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' MOTION TO QUASH, MODIFY OR STAY SUBPOENA *DUCES TECUM*** upon all counsel of record, via U.S. Mail, postage pre-paid, and addressed as follows:

Mr. Robert Pickle
1354 County Highway 21
Halstad, MN 56548
***Pro Se* Defendant**

Gailon Arthur Joy
P.O. Box 1425
Sterling, MA 01564-1425
***Pro Se* Defendant**

Deanna L. Litzenburg
Mathis, Marifian, Richter & Grandy, Ltd.
23 Public Square, Suite 300
P.O. Box 307
Belleville, IL 62220
Attorneys for Gray, Hunter, Stenn, LLP

/s/ Jennifer E. White
Jennifer E. White
Attorney for Plaintiffs

5408920_v1

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF ILLINOIS

Three Angels Broadcasting Network, Inc.,
an Illinois non-profit corporation, and
Danny Lee Shelton, individually,

Plaintiffs,

v.

Gailon Arthur Joy and Robert Pickle,

Defendants.

Case No.

AFFIDAVIT OF M. GREGORY SIMPSON IN SUPPORT OF PLAINTIFFS' MOTION TO QUASH, MODIFY OR STAY SUBPOENA *DUCES TECUM*

STATE OF MINNESOTA)
) ss
COUNTY OF HENNEPIN)

M. Gregory Simpson, being first sworn and on oath, states as follows:

1. I am an attorney for the Plaintiffs in the above-captioned lawsuit. I have personal knowledge of the matters stated herein, except where some other basis is indicated.

2. Counsel for Gray Hunter Stenn LLP advised me that the subpoena *duces tecum* which this motion addresses was served on March 17, 2008 by *pro se* Defendants Robert Pickle and Gailon Joy. On its face, it appears to have been issued by this Court on December 28, 2007 and names "Alan Lovejoy or Keeper of the Records at Gray Hunter Stenn LLP" ("Gray Hunter"). A true and correct copy is attached as Exhibit A.

3. Lovejoy is 3ABN's outside accountant, and Gray Hunter is his firm. The subpoena was issued in connection with litigation pending in the United States District Court for the District of Massachusetts captioned *Three Angels Broadcasting Network, Inc. and Danny Lee Shelton v. Gailon Arthur Joy and Robert Pickle* (No. 07-40098-FDS (D. Mass.)). The lawsuit was filed on April 6, 2007. A copy is attached hereto as Exhibit B. Defendants' answer is attached hereto as Exhibit C.

4. Gray Hunter's counsel advised me that Gray Hunter had initially objected to the subpoena and refused to comply, but has now decided to produce all responsive documents because it does not wish to incur the expense of defending against a motion to enforce the subpoena. They have indicated that the production will occur on June 24, 2008.

5. On April 17, 2008, the Massachusetts Court issued a "Confidentiality and Protective Order" establishing a procedure for designating as Confidential all documents produced in discovery in this case, including documents produced by third parties. (Simpson Aff. Ex. D). The court's order does not address the topic of what scope of discovery should be permitted, but merely provides a procedure for designating material that is produced as confidential.

6. Defendants submitted a cover letter that accompanies the subpoena explaining their why they feel the documents are necessary for the litigation. A copy is attached as Exhibit E.

7. Gray Hunter Stenn's counsel confirmed their receipt of the subpoena on March 17, 2008. Gray Hunter advises that they timely objected to the subpoena on a number of bases, but recently advised that on June 24, 2008, they intend to comply with

the subpoena with no restrictions, other than that all documents produced will be designated as "Confidential" under the Protective Order issued by the court in Massachusetts.

8. The subpoena seeks the same information as has been requested in Defendant Pickle's Requests for Production of Documents, request numbers 9, 10, 11 and 12, 21, 22, 25, and 26, except that those requests were more narrowly tailored. A copy of Pickle's document requests is attached as Exhibit F, and Plaintiff's responses are attached as Exhibit G.

9. A motion to restrict the scope of permissible discovery, including the third party discovery at issue in this motion, is being prepared at this moment. Plaintiffs expect that the motion will be on file in the Massachusetts court in which this case is pending by the time the present motion is heard.

FURTHER YOUR AFFIANT SAYETH NOT.

Dated: June 13, 2008.

M. Gregory Simpson

Subscribed and sworn to before
me this 13th day of June, 2008.

Notary Public

AMY JO DITTY
Notary Public-Minnesota
My Commission Expires Jan 31, 2010

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

Three Angels Broadcasting Network, Inc.,
an Illinois non-profit corporation, and
Danny Lee Shelton, individually,

Case No. 08-MC-16

Plaintiffs,

v.

Gailon Arthur Joy and Robert Pickle,

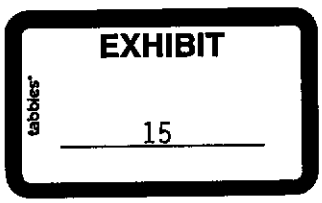
Defendants.

ORDER TO SHOW CAUSE

This matter having come before the Court on Plaintiffs' Motion to Quash, Modify or Stay Subpoena *Duces Tecum* (Doc. 2), and the Court having examined the same and being duly advised in the premises now **GRANTS** said Motion and **STAYS** the Subpoena *Duces Tecum* until further Court order. The Court further **ORDERS** the defendants to **SHOW CAUSE** on or before July 9, 2008, why the Court should not quash the Subpoena *Duces Tecum* because it subjects a third party to undue burden, *see* Fed. R. Civ. P. 45(c)(3)(A)(iv), because it requires disclosing a trade secret or other confidential research, development, or commercial information, *see* Fed. R. Civ. P. 45(c)(3)(B)(i), and because it is not tailored to request records relevant or with a nexus to the issues in the underlying litigation. The Court further **ORDERS** the plaintiffs to inform the Court expeditiously of any resolution to this matter by the District Court for the District of Massachusetts. The Court **DIRECTS** the Clerk of Court to send a copy of this order via U.S. mail to:

Robert Pickle
1354 County Highway 21
Halstad, MN 56548

Gailon Arthur Joy
P.O. Box 1425
Sterling, MA 01564-1425



Deanna L. Litzenburg
Mathis, Marifian, Richter & Grandy, Ltd.
23 Public Square, Suite 300
P.O. Box 307
Belleville, IL 62220.

The Court further **DIRECTS** the Clerk of Court to e-mail this order to Ms. Litzenberg at dlitzenburg@mmrg.com.

IT IS SO ORDERED.
DATED: June 18, 2008

s/ J. Phil Gilbert
J. Phil Gilbert
United States District Judge

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE: OUT OF DISTRICT SUBPOENA,

Hon. Richard Alan Enslen

Case No. 1:08-mc-00003

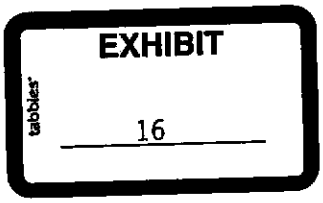
_____/

ORDER

This matter is before the Court on "Defendant's Motion to Compel" filed pursuant to a third party subpoena issued from this district (Dkt. 2). The matter was heard on June 16, 2008. The third party subpoena arises from a case pending in the District of Massachusetts brought by Three Angels Broadcasting Network, Inc. and Danny Lee Shelton against Gailon Arthur Joy and Robert Pickle for alleged defamation. Documents are sought by defendants Joy and Pickle from Remnant Publications, which is located in the Western District of Michigan. For reasons stated on the record at the hearing held June 16, 2008:

IT IS HEREBY ORDERED that Defendant's Motion to Compel (Dkt. 2) is **granted in part and denied in part**. Specifically, the motion is granted as to documents described in the subpoena involving Three Angels Broadcasting Network, Inc. and Danny Lee Shelton. The motion is denied as to other entities.

IT IS FURTHER ORDERED that Remnant Publications, Inc. shall serve responsive documents on Defendants no later than 14 days from the date of this Order. These documents shall be subject to the Protective Order already entered in the underlying case. Further, on reflection, the Court will not order those documents to be submitted for *in camera* review to the Massachusetts



court because the relevance of the documents seems clear and there is already a protective order in the Massachusetts case.

Date: June 20, 2008

/s/ Ellen S. Carmody
ELLEN S. CARMODY
United States Magistrate Judge