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**UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION**

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UNITED STATES OF AMERICA,

Plaintiff,

v.

RAPOWER-3, LLC; INTERNATIONAL  
AUTOMATED SYSTEMS, INC.; LTB1,  
LLC; R. GREGORY SHEPARD; NELDON  
JOHNSON; and ROGER FREEBORN,

Defendants.

**RECEIVER'S SPECIAL REPORT ON  
STATUS OF LITIGATION**

*As of February 25, 2021*

Civil No. 2:15-cv-00828-DN-DAO

District Judge David Nuffer

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R. Wayne Klein, the Court-Appointed Receiver (the "Receiver") of RaPower-3, LLC ("RaPower"), its subsidiaries and affiliates ("Receivership Entities"), and the assets of Neldon Johnson and R. Gregory Shepard, hereby submits this Special Report on Status of Litigation ("Report"), as of February 25, 2021.

**I. OVERVIEW**

The Receivership Estate was created on October 31, 2018 with entry of the Court’s *Receivership Order* (“Order”),<sup>1</sup> which, among other things, appointed the Receiver and continued a previously-entered asset freeze.<sup>2</sup> A May 3, 2019 order expanded the Receivership Estate to include 13 additional affiliated entities (“Affiliated Entities”).<sup>3</sup>

On May 24, 2019, the Court granted the Receiver’s motion to commence legal proceedings.<sup>4</sup> Since that time, the Receiver has filed over a hundred lawsuits against family members, insiders, law firms, credit card issuers, commission recipients, and others. In addition, the Receiver has made demand on others for returns of amounts improperly paid out by Receivership Entities and has settled approximately 20 of these cases without the necessity of initiating litigation.

This Report summarizes the progress to date of the litigation and settlements.

**II. SETTLEMENTS**

A. Approved Settlements. The Receiver has filed eight motions for approval of settlement agreements, all eight of which have been approved. As settlement agreements are approved and a pattern of payments is established, the Receiver dismisses the lawsuits underlying those settlements. The approved settlements (which are not in default) involve the persons listed in the table below:

Name	Case No.	Case Status
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<sup>1</sup> [Docket No. 490](#). A *Corrected Receivership Order* (“CRO”), which corrected formatting errors, was entered the following day. [Docket No. 491](#), filed November 1, 2018.

<sup>2</sup> *Memorandum Decision and Order Freezing Assets and to Appoint a Receiver*, [Docket No. 444](#), filed August 22, 2018.

<sup>3</sup> [Docket No. 636](#), filed May 3, 2019. The Court overruled objections to this order. [Docket No. 718](#), filed July 8, 2019. Defendants appealed this order, which appeal was dismissed.

<sup>4</sup> [Docket No. 673](#), filed May 24, 2019.

Amidan, Matthew	Settlement without litigation	Settlement paid in full
Anderson, Kelvin	2:19-cv-00798-DN-PK	Dismissed; paid in full
Anderson, Treddis	2:19-cv-00795-DN-PK	Dismissed; 50% paid
Atwood, Steven	Settlement without litigation	Settlement paid in full
Becker, James	2:19-cv-00787-DN-PK	Dismissed; paid in full
Black, Scott	2:19-cv-00678-DN-PK	Not dismissed; first pymt.
Blackburn, Richard	Settlement without litigation	63% paid
Borden, Michael	2:19-cv-00788-DN-PK	Dismissed; paid in full
Boyack, Wallace	Settlement without litigation	Paid in full
Brittain, Bryan	Settlement without litigation	Paid in full
Brittain, Kristi & Dw.	2:19-cv-00845-DN-PK	Dismissed; paid in full
Brumfield, Thad	Settlement without litigation	Paid in full
Capital One	Settlement without litigation	Paid in full
Carranza, Mark	Settlement without litigation	76% paid
Church of Jesus Chr.	Settlement without litigation	Paid in full
Citibank	2:19-cv-00834-DN-PK	Dismissed; paid in full
Coates, Thomas	2:19-cv-00789-DN-PK	Dismissed; paid in full
Cook, Ryan	2:19-cv-00790-DN-PK	Dismissed; 67% paid
Couch, Jimmy	2:19-cv-00802-DN-PK	Dismissed; paid in full
DeLong, Robert	2:19-cv-00762-DN-PK	Dismissed; 93% paid
Discover Card	2:19-cv-00837-DN-PK	Dismissed; paid in full
Gilmore, Mary	Settlement without litigation	Paid in full
Gleaves Swearingen	2:19-cv-00841-DN-PK	Dismissed; paid in full
Gregg, Peter	Settlement without litigation	Paid in full
Hale & Wood	Settlement without litigation	Paid in full
Hamilton, Monty	2:19-cv-00823-DN-PK	Not dismissed; paid in full
Hyatt, Rodney	2:19-cv-00777-DN-PK	Dismissed; paid in full
Johnson, Robert	Settlement without litigation	Paid in full
Jordan, Edward	2:19-cv-00703-DN-PK	Jordan dismissed; pd. in full
Jordan, Mickey	Settlement without litigation	Paid in full
Kulacz, Connie	2:19-cv-00679-DN-PK	Dismissed; paid in full
Lawyer, Kristin	Settlement without litigation	Paid in full
Lewis, Natalyn	2:19-cv-00801-DN-PK	Dismissed; paid in full
Mahler, Mike	2:19-cv-00715-DN-PK	Not dismissed; First payment made
McGan, James	Settlement without litigation	Paid in full
Neven, Lance	Settlement without litigation	83% paid

North, Michael	Settlement without litigation	Paid in full
Orgill, Pamela	2:19-cv-00681-DN-PK	Dismissed; paid in full
Orth, Matthew	Settlement without litigation	Paid in full
Orth, Richard	Settlement without litigation	Paid in full
Pack, Bill	2:19-cv-00815-DN-PK	Dismissed; no pymt. req.
Palmore, Carl	2:19-cv-00718-DN-PK	Dismissed; paid in full
Pionk, Herbert	Settlement without litigation	Paid in full
Pionk, Sadie	Settlement without litigation	Paid in full
Pri-Med	Settlement without litigation	Paid in full
Rowbotham, Robert	2:20-cv-00193-DN	Dismissed; 81% paid
Shepard, Greg	Settlement re: residence sale	In process
Sikich, Mark	Settlement without litigation	Paid in full
Snell & Wilmer	Settlement without litigation	Paid in full
Sorenson, Bryan	Settlement without litigation	Paid in full
Swenson, Lyle	2:19-cv-00682-DN-PK	Dismissed; paid in full
Tiffin Commun. Fdn.	Settlement without litigation	Paid in full
Virkus, Sandra	Settlement without litigation	Paid in full
Williams, Lynette	2:19-cv-00696-DN-PK	Not dismissed; not yet due
Young, Carolyn	Settlement without litigation	Paid in full
Zelevnik, Brian	Settlement without litigation	Paid in full

B. Delinquent Settlements. The defendants who are delinquent in their obligations under their settlement agreements are:

- a. Abdullah, Fareed. He has made no payments. The settlement was reached before any lawsuit was filed. The Receiver is evaluating whether to initiate litigation;
- b. Ayres, Evan. He has made no payments. The settlement was reached before any lawsuit was filed. The Receiver has filed a lawsuit against Ayres, Case No. 2:21-cv-00110-DN;
- c. Griffin Painting. Case No. 2:19-cv-00844-DN-PK (case dismissed). \$15,750.00 of the \$19,688.17 settlement amount has been paid. Defendant is beyond the

agreement deadline, but has requested additional time due to financial losses in his business due to COVID;

d. Luke, Shane. Case No. 2:19-cv-00688-DN-PK. A partial payment was made. An extension to February 15, 2021 was granted for the remainder. Shane Luke failed to make this payment.

e. Bowers, Steven. Case No. 2:19-cv-00530-DN-PK. Bowers has failed to make the settlement payment. The Receiver will initiate an action against Bowers for breach of the settlement agreement.

### **III. SUMMARY JUDGMENT MOTIONS**

The Receiver has filed summary judgment motions in the cases listed in the two tables below. Most, but not all, involve payments of commissions for sales of solar lenses. On February 25 and 26, 2021, the Court indicated it was granting summary judgment in the cases in the table below:

Name	Case No.
Bell Energy	2:19-cv-00804-DN-PK
Brennan, Paul	2:19-cv-00687-DN-PK
Chaston, Steven	2:19-cv-00683-DN-PK
Hadderton, Carey	2:19-cv-00704-DN-PK
Jones, Paul	2:19-cv-00693-DN-PK
Kerr, Kevin/Gracie	2:19-cv-00768-DN-PK
Newman, Kirk	2:19-cv-00694-DN-PK
Roe, Janet	2:19-cv-00719-DN-PK
Scraggs, Joseph	2:19-cv-00727-DN-PK
Shepherd, Trudy	2:19-cv-00695-DN-PK
Turner, Jeffrey	2:19-cv-00767-DN-PK

The Court had previously issued orders in several cases, taking summary judgment motions under advisement and directing the Receiver to prepare and submit a proposed order

granting the motion for summary judgment. In all of these cases where the Court had given these notices, however, the defendant has either settled with the Receiver or counsel for the defendant has moved for and received additional time to file an opposition memorandum, and subsequently filed the opposition memorandum.

For the cases listed in the table below, the Receiver's summary judgment motions are pending:

Name	Case No.	Briefing Status
Bennett, Amber	2:19-cv-00703-DN-PK	Reply Due March 5, 2021
Day, Melvin Thomas	2:19-cv-00692-DN-PK	Briefing completed
Finkes, Reinhold	2:19-cv-00761-DN-PK	Briefing completed
Hamblin, Roger	2:19-cv-00783-DN-PK	Opposition due March 11, 2021
Howell, John	2:19-cv-00705-DN-PK	Reply Due March 5, 2021
Lunn, Frank	2:19-cv-00835-DN-PK	Opposition due March 26, 2021
Manley, Mark	2:19-cv-00716-DN-PK	Briefing completed
Newman, Ina	2:19-cv-00623-DN-PK	Reply Due March 5, 2021
Payne, Linda/Steven	2:19-cv-00791-DN-PK	Reply Due March 5, 2021
Plater, Dallas	2:19-cv-00792-DN-PK	Reply Due March 5, 2021
Searcy, Richard	2:19-cv-00776-DN-PK	Briefing completed
Smith, Kelvin	2:19-cv-00680-DN-PK	Briefing completed
Welborn, Lindy	2:19-cv-00780-DN-PK	Briefing completed
Woodson, James	2:19-cv-00794-DN-PK	Reply Due March 5, 2021

#### IV. DEFAULTS

The Receiver has obtained default certificates or default judgments in the cases listed in the table below. Where default certificates have been obtained, the Receiver intends to seek default judgments.

Bean, Joel	2:19-cv-00702-DN-PK	Default judgment entered
Battle, Hinton	2:20-cv-00010-DN	Default judgment entered
Clement/Kinsey	2:19-cv-00729-DN-PK	Default certificate entered against Clement

Hampton, Michael	2:19-cv-00778-DN-PK	Default judgment entered
Mahler, Mike	2:19-cv-00715-DN-PK	Motion for Default Judgment Filed, settlement agreement approved 2/16/21
Mooney, Thomas	2:19-cv-00717-DN-PK	Default judgment entered
Smith, Debbie	2:19-cv-00728-DN-PK	Default judgment entered
Stilson, Dennis	2:19-cv-00689-DN-PK	Default judgment entered
Tilden, Robert	2:19-cv-00793-DN-PK	Default judgment entered
Johnson, Jeron	2:19-cv-00799-DN-PK	Default certificate entered
K. Hawes & Associates	2:19-cv-00840-DN-PK	Default judgment entered

## V. DISMISSED LITIGATION

The Receiver has dismissed three of the lawsuits he filed without pursuing further litigation or settlements. These were against Korry Ardell, Ryan Davies, and Gary Peterson.

## VI. DISCOVERY ONGOING

A. Lawsuits Against Commission Recipients. The lawsuits against commission recipients, listed in the table below, are ongoing:

Armand, Jean	Aulds, Robert	Freeborn, Jacqueline	King, Steven
Kontos, Nicholas	Stewart, Raleigh	Zeigler, Andrew	Kinsey, Suncore

B. Lawsuits Against Insiders, Attorneys, Others. The lawsuits listed in the table below are against family members, insiders, attorneys, and others:

Frandsen/Hutchings	Johnson, Glenda	Heideman & Assoc.	Jameson, Richard
JP Morgan Chase Bk.	Plaskolite, Inc.	Johnson, LaGrand	Johnson, Randale
Nelson Snuffer Dahle	Snow, S. Curtis	Reay, Donald	Shepard, Mark
Shepard, Matthew	Taylor, Christopher		

C. Motion for Order to Show Cause. The Receiver also has filed a motion for order to show cause against Glenda Johnson, Roger Hamblin, and Preston Olson, which was granted.<sup>5</sup>

### VIII. CONCLUSION

The Receiver certifies that the information in this Special Report on Status of Litigation is accurate to the best of his knowledge.

/s/ Wayne Klein

Wayne Klein  
Receiver

DATED this 26<sup>th</sup> day of February 2021.

**PARR BROWN GEE & LOVELESS**

/s/ Jonathan O. Hafen

Jonathan O. Hafen  
Michael S. Lehr  
*Attorneys for Receiver*

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<sup>5</sup> Docket No. 1088, filed February 16, 2021.



**CERTIFICATE OF SERVICE**

IT IS HEREBY CERTIFIED that service of the above **RECEIVER'S SPECIAL REPORT ON STATUS OF LITIGATION** was electronically filed with the Clerk of the Court through the CM/ECF system on February 26<sup>th</sup>, 2021, which sent notice of the electronic filing to all counsel of record and by mail to the following on March 1, 2021.

Neldon P. Johnson  
International Automated Systems, Inc.  
RaPower-3, LLC  
LTB1, LLC  
2730 West 4000 South  
Oasis, Utah 84624

R. Gregory Shepard  
858 W. Clover Meadow Dr.  
Murray, Utah 84123

/s/ Michael S. Lehr