

Jonathan O. Hafen (6096) ([jhafen@parrbrown.com](mailto:jhafen@parrbrown.com))

Jeffery A. Balls (12437) ([jballs@parrbrown.com](mailto:jballs@parrbrown.com))

**PARR BROWN GEE & LOVELESS, P.C.**

101 South 200 East, Suite 700

Salt Lake City, Utah 84111

Telephone: (801) 532-7840

*Attorneys for Court-Appointed Receiver Wayne Klein*

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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 SEVENTH SPECIAL  
REPORT ON STATUS OF  
SETTLEMENTS AND LITIGATION**

*As of August 15, 2022*

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

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 Seventh Special Report on Status of Settlements and Litigation (“Report”), from May 26, 2022 to August 15, 2022.

**I. OVERVIEW**

The Receivership Estate was created on October 31, 2018 with entry of the Court’s *Receivership Order* (“Order”).<sup>1</sup> Thirteen affiliated entities were added on May 3, 2019.<sup>2</sup>

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

<sup>2</sup>[Docket No. 636](#), filed May 3, 2019.

Subsequent to the Court granting the Receiver's motion to commence legal proceedings,<sup>3</sup> 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; approximately 30 of these cases were settled without the necessity of initiating litigation.

This Report summarizes the progress to date of the settlements and ongoing litigation. The most significant changes since the prior Litigation Status Report are: a) the Court granted the Receiver's motion to assign six judgments to the United States and notices of assignment have been filed in each of those cases, b) hearings have commenced against three judgment defendants who are opposing garnishment orders granted to the Receiver, c) summary judgment was granted in one pending case (Matthew Shepard) and bankruptcy discharge was granted involving another defendant (Jerson Johnson),<sup>4</sup> reducing the number of pending, unresolved cases to eight, and d) cases transferred from Judge Nuffer have been assigned to new district court judges and some new trial dates have been set.

## **II. SETTLEMENTS**

A. Approved Settlements. The Receiver has filed 15 motions for approval of settlement agreements, all of which have been approved. The statuses of these settlements are:

<b>Settlement Agreements Paid in Full as of August 15, 2022</b>			
70 settlement agreements have been paid in full and dismissed or judgments entered.			

<b>Settlement Agreements Paid in Full Since May 26, 2022</b>			
<b>Name</b>	<b>Case No.</b>	<b>Case Status</b>	<b>Payment Status</b>
None			

<sup>3</sup>Docket No. 673, filed May 24, 2019.

<sup>4</sup>The Receiver will dismiss this pending litigation.

<b>Settlement Agreements With Installment Payments Being Made</b>				
<b>Name</b>	<b>Case No.</b>	<b>Case Status</b>	<b>Prior</b>	<b>Current</b>
Aulds, Robert	2:19-cv-00192-DN-PK	Dismissed	46%	54%
Bell Energy	2:19-cv-00804-DN-PK	Dismissed	72%	72%
Black, Scott	2:19-cv-00678-DN-PK	Dismissed	47%	56%
Day, Thomas	2:19-cv-00692-DN-PK	Dismissed	52%	60%
Heideman & Assoc.	2:19-cv-00854-DN-PK	Dismissed	17%	17%
Kinsey, Ed	2:19-cv-00729-DN-PK	Dismissed	16%	21%
Newman, Kirk	2:19-cv-00694-DN-PK	Judgment	66%	78%
Newman, Ina	2:18-cv-00623-DN-PK	Dismissed	43%	49%
Shepard, Mark	2:19-cv-00803-DN-PK	Dismissed	44%	63%
Woodson, James	2:19-cv-00794-DN-PK	Judgment	51%	59%

B. Delinquent Settlements. Four defendants are delinquent in their settlement agreement obligations:

<b>Name</b>	<b>Case No.</b>	<b>Amt. Owed</b>	<b>Amt. Paid</b>	<b>Comments</b>
Abdullah, Fareed	None	\$5, 991.50	\$991.50	Settlement before lawsuit.
Bowers, Steven	2:18-cv-00530	\$19,800.00	\$0.00	Receiver to file suit
Luke, Shane	2:19-cv-00688	\$16,500.00	\$15,500.00	Delinquent: 94% paid
Searcy, Richard	2:19-cv-00776	\$56,000.00	\$6,000.00	Delinquent: 11% paid

### **III. SUMMARY JUDGMENTS TO COLLECT**

On May 31, 2022, the Court granted the Receiver's motion to assign the first six judgments listed below to the United States for collection.<sup>5</sup> The Receiver and the United States signed an assignment agreement on August 1, 2022. Notices of assignment were filed in each of the six cases on August 8, 2022. The Court granted summary judgment in an additional case, against Matthew Shepard on July 5, 2022. That judgment has not yet been assigned to the United States.

<sup>5</sup>Docket no. 1214, filed May 31, 2022.

<b>Defendant</b>	<b>Case No.</b>	<b>Judgment Date</b>	<b>Judgment Amount</b>	<b>Pre-Judgment Interest</b>
Brennan, Paul	2:19-cv-00687	4/19/21	\$95,591.76	\$14,862.55 <sup>6</sup>
Kerr, Gracie & Kevin	2:19-cv-00768	4/19/21	\$40,944.70	\$5,771.52
King, Steven Lynn	2:19-cv-00706	11/9/21	\$22,108.05	\$3,909.79
Scraggs, Joseph	2:19-cv-00727	4/15/21	\$9,852.75	\$1,338.89
Stewart, Raleigh	2:19-cv-00726	11/9/21	\$11,579.53	\$2,135.08
Turner, Jeffrey	2:19-cv-00767	4/16/21	\$13,020.00	\$3,208.63
Shepard, Matthew	2:19-cv-00533	7/5/22	\$141,763.22	\$24,857.11

#### **IV. DEFAULT JUDGMENTS TO COLLECT**

The Court has granted default judgments in the cases listed in the next table. The Receiver is coordinating with counsel for the United States in commencing collection on these judgments, which includes garnishment efforts described in the next section.

<b>Name</b>	<b>Case No.</b>	<b>Judgment Date</b>	<b>Judgment Amount</b>	<b>Pre-Judgment Interest</b>
Battle, Hinton	2:20-cv-00010	2/24/21	\$18,657.30	\$2,461.23
Bean, Joel	2:19-cv-00702	2/24/21	\$16,018.10	\$1,533.79
Clement, Jason <sup>7</sup>	2:19-cv-00792	10/5/21	\$303,950.00	\$55,960.11
Frandsen, Jay D. <sup>8</sup>	2:19-cv-00660	10/14/21	\$52,000.00	\$20,044.93
Hampton, Michael	2:19-cv-00778	2/24/21	\$9,499.75	\$1,391.13
K. Hawes Associates	2:19-cv-00840	9/25/20	\$25,512.00	\$2,897.19
Smith, Debbie	2:19-cv-00728	4/13/20	\$18,469.80	\$1,664.81
Stilson, Dennis	2:19-cv-00689	2/24/21	\$32,471.25	\$3,327.19
Tilden, Robert	2:19-cv-00793	2/23/21	\$43,775.40	\$9,948.41

#### **IV. GARNISHMENTS**

Magistrate Judge Kohler has begun holding hearings on judgment defendant objections to garnishment orders issued by the Court. In early August, hearings were held on objections by Carey Hadderton and John Howell, both of whom were directed to provide additional

<sup>6</sup>The Receiver collected \$104.52 on this judgment via garnishment proceedings.

<sup>7</sup>Clement was a co-defendant in a case with Edward Kinsey, Suncore, and Edde Enterprises. The other defendants have entered into a settlement agreement that was approved by the Court (which is listed above).

<sup>8</sup>The litigation against a co-defendant, Larry T. Hutchings, has been dismissed.

documentation supporting their objections. A third hearing, involving Robert Tilden, is scheduled for later in August.

## **V. APPEALS**

As of August 15, 2022, appeals by the seven defendants listed below were pending, all relating to the disgorgement of sales commissions. Six of these appeals, other than that of Trudy Shepherd, were consolidated for briefing and oral argument.

<b>Appeals by Commission Recipients</b>				
<b>Name</b>	<b>Case No.</b>	<b>Appeal No.</b>	<b>Date of Appeal</b>	<b>Status</b>
Armand, Jean	2:19-cv-00779	21-4071	5/27/21	Oral argument 5/19/22. <sup>9</sup>
Finkes, Reinhold	2:19-cv-00761	21-4090	7/22/21	Oral argument 5/19/22. <sup>10</sup>
Hadderton, Carey	2:19-cv-00704	21-4077	6/10/21	Oral argument 5/19/22.
Hamblin, Roger <sup>11</sup>	2:19-cv-00783	21-4075	6/4/21	Oral argument 5/19/22.
Howell, John	2:19-cv-00705	21-4076	6/10/21	Oral argument 5/19/22.
Roe, Janet	2:19-cv-00719	21-4065	5/13/21	Oral argument 5/19/22.
Shepherd, Trudy	2:19-cv-00695	21-4064	5/7/21	Submitted on briefs 8/5/21. <sup>12</sup>

All appeals by Neldon Johnson and other insiders are resolved, as summarized below:

<b>Appeals by Insiders: Resolved</b>			
<b>Appeal #</b>	<b>Subject of Appeal</b>	<b>Status</b>	<b>Date</b>
18-4119	Injunction, disgorgement, receiver	District court affirmed	6/2/20
18-4150	Combined with 18-4119	District court affirmed	6/2/20
19-4066	Discovery order, motion to dismiss	Appeal dismissed	6/24/19
19-4089	Inclusion of affiliates in receivership	Appeal dismissed	6/22/20
21-4015	Denial of motion to reconsider judgment	District court affirmed	12/2/21
21-4080	Attorneys' fees: Glenda Johnson contempt	District court affirmed	3/2/22

## **VI. DISMISSED LITIGATION**

There were no dismissals during the reporting period.

<sup>9</sup>The Receiver has collected \$1,061.93 on this judgment via garnishment proceedings.

<sup>10</sup>The Receiver has collected \$201.30 on this judgment via garnishment proceedings.

<sup>11</sup>A filing with the Tenth Circuit indicates that Mr. Hamblin died in January 2022.

<sup>12</sup>Trudy Shepherd deposited the amount of the judgment with the Receiver, to avoid garnishment proceedings, but is continuing her appeal.

## **VII. OTHER LITIGATION**

The eight lawsuits filed by the Receiver that are still pending fall into three categories: cases on hold for various reasons (1), cases where summary judgment motions are pending (3), and cases with upcoming trial dates (4). These cases are described in the tables below:

<b>Litigation Matters on Hold</b>			
<b>Name</b>	<b>Case No.</b>	<b>Type of Case</b>	<b>Status/Next Deadline</b>
Jameson, Richard	2:19-cv-00822	Expert	Case stayed pending results of IRS proceedings. Jameson recently died.
<del>Johnson, Jeron</del>	<del>2:19-cv-00799</del>	<del>Commissions</del>	Bankruptcy court granted discharge; Receiver will dismiss action.

<b>Summary Judgment Motions Pending</b>			
<b>Name</b>	<b>Case No.</b>	<b>Type of Case</b>	<b>Status/Next Deadline</b>
Johnson, LaGrand	2:19-cv-00534	Insider	Summary judgment briefing was completed 5/26/22. Case reassigned to Judge Nielson; trial setting vacated, pending ruling on summary judgment motion.
Johnson, Randale	2:19-cv-00532	Insider	Summary judgment briefing was completed 5/20/22. Case reassigned to Judge Nielson; trial setting vacated, pending ruling on summary judgment motion.
Plaskolite, LLC	2:19-cv-00832	Supplier	Briefing on cross motions for summary judgment was completed May 23, 2022. Case reassigned to Judge Barlow; trial setting vacated.

<b>Cases With Upcoming Trial Dates</b>			
<b>Name</b>	<b>Case No.</b>	<b>Type of Case</b>	<b>Status/Next Deadline</b>
Johnson, Glenda	2:19-cv-00625	Insider	Case reassigned to Judge Barlow. Expert deadline is 2/3/23. Trial set for 8/14/23.
Nelson Snuffer	2:19-cv-00851	Legal services	Case reassigned to Judge Campbell. Expert deadline is 5/8/23. Trial set for 1/22/24.
Snow, Stacy Curtis	2:19-cv-00757	Insider	Case reassigned to Judge Barlow. Case combined with Taylor case for trial. Trial set for 1/9/23.

Taylor, Christopher	2:19-cv-00816	Insider	Case reassigned to Judge Barlow. Case combined with Snow case for trial. Trial set for 1/9/23.
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### **VIII. CONCLUSION**

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

DATED this 23<sup>rd</sup> day of August 2022.

/s/ Wayne Klein

Wayne Klein  
Receiver

DATED this 23<sup>rd</sup> day of August 2022.

**PARR BROWN GEE & LOVELESS**

/s/ Jeffery A. Balls

Jonathan O. Hafen  
Jeffery A. Balls  
*Attorneys for Receiver*

**CERTIFICATE OF SERVICE**

IT IS HEREBY CERTIFIED that service of the above **RECEIVER'S SEVENTH SPECIAL REPORT ON STATUS OF LITIGATION** was electronically filed with the Clerk of the Court through the CM/ECF system on August 24, 2022, which sent notice of the electronic filing to all counsel of record and sent by mail to the following:

Neldon P. Johnson  
Post Office Box 95332  
South Jordan, Utah 84095

R. Gregory Shepard  
10672 Winter Haven Court  
South Jordan, Utah 84095

/s/ Wendy V. Tuckett