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

UNITED STATES OF AMERICA,

Plaintiff,

v.

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

Defendants.

**SIXTEENTH INTERIM FEE
APPLICATION FOR RECEIVER AND
RECEIVER'S PROFESSIONALS FOR
SERVICES RENDERED FROM JULY 1,
2022 THROUGH SEPTEMBER 30, 2022**

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

District Judge David Nuffer

In accordance with the Corrected Receivership Order (the “Receivership Order”),¹ R. Wayne Klein, the Court-Appointed Receiver (the “Receiver”) of RaPower-3, LLC (“RaPower”), International Automated Systems, Inc. (“IAS”), and LTB1, LLC (“LTB1”) and thirteen subsidiaries and affiliates (collectively, the “Receivership Entities”), and the assets of Neldon Johnson (“Johnson”) and R. Gregory Shepard (“Shepard”) (collectively “Receivership Defendants”), hereby submits this sixteenth interim “Fee Application,” seeking approval by the Court of fees and expenses incurred by the Receiver and his staff at Klein and Associates, PLLC

¹[Docket No. 491](#), filed Nov. 1, 2018.

(“Klein and Associates”) and the Receiver’s legal counsel, Parr Brown Gee & Loveless, P.C. (“Parr Brown”), for the period of July 1, 2022 through September 30, 2022 (the “Application Period”), and authorization to pay all authorized fees and expenses from unencumbered funds of the Receivership Estate. There were no fees or expenses incurred during the quarter by the Receiver’s conflict counsel, Manning Curtis Bradshaw & Bednar (“Manning Curtis”) or the Receiver’s forensic accountants, Lone Peak Valuation Group (“Lone Peak”).

In support hereof, the Receiver states as follows.

I. BACKGROUND

1. The United States commenced this case on November 23, 2015 against Defendants RaPower-3, IAS, LTB1, Johnson, Shepard, and Roger Freeborn.² The United States alleged, and the Court found, among other things, that Defendants operated a massive tax fraud.³

2. On October 31, 2018, the Court entered its *Receivership Order* (“Order”),⁴ which, among other things, appointed the Receiver and continued a previously entered asset freeze.⁵

3. Upon his appointment, and in accordance with the Receivership Order, the Receiver employed Parr Brown as his legal counsel and Lone Peak Valuation Group as his forensic accountants (“Retained Professionals”), and such retention was approved by the Court.⁶ The

²Complaint, [Docket No. 2](#), filed Nov. 23, 2015.

³Amended and Restated Judgment, [Docket No. 507](#), filed Nov. 13, 2018; *Findings of Fact and Conclusions of Law*, [Docket No. 467](#), filed Oct. 4, 2018.

⁴[Docket No. 490](#). A *Corrected Receivership Order*, which corrected formatting errors, was entered the following day. [Docket No. 491](#), filed Nov. 1, 2018.

⁵Memorandum Decision and Order Freezing Assets and to Appoint a Receiver, [Docket No. 444](#), filed Aug. 22, 2018.

⁶[Docket No. 500](#), filed Nov. 6, 2018.

Court approved appointment of Manning Curtis as conflict counsel, to handle three instances of litigation where Parr Brown has conflicts.⁷

4. During the present Application Period, the Receiver and his professionals have provided actual and necessary services for the benefit of the Receivership Estate which are set forth in greater detail below. The Receiver respectfully submits that the fees and expenses requested in the Fee Application are reasonable and should be approved.

5. The Receiver submitted the Fee Application to Plaintiff for review, comment, and objection prior to filing. The Plaintiff provided comments to the Receiver, and the Plaintiff has informed the Receiver that it has no objection to the fees and expenses as requested herein.

II. SERVICES PERFORMED

6. The actions of the Receiver and his retained professionals during the Application Period are summarized in the *Receiver's Sixteenth Quarterly Status Report* ("Sixteenth Status Report"), filed October 4, 2022.⁸ Below is a brief summary of actions described in the Sixteenth Status Report.

7. Judge Kohler has held hearings on garnishment objections filed by three judgment debtors and the Receiver has reviewed financial information from those defendants. Six judgments were assigned to the United States. The sale of one property closed and an offer was received (and an auction set) for the final available property. Monies are being collected on prior settlement agreements, including full collection of a delinquent settlement. Two litigation cases were closed, including summary judgment granted by the Court against Matthew Shepard.

⁷[Docket No. 785](#), filed October 11, 2019.

⁸Docket No. 1229, filed October 4, 2022.

Supplemental briefing was provided to the Court and the Tenth Circuit relating to a recent Tenth Circuit ruling affecting receivership recoveries. Trial preparation continues for the eight litigation cases remaining.

8. As this fee application demonstrates, there has been a reduction in activity relating to the Receivership as the number of properties remaining to be sold is reduced and litigation matters are resolved.

III. BANK ACCOUNTS OF THE RECEIVERSHIP ESTATE

9. The Receivership Estate maintains a Receivership checking account and a savings account at Wells Fargo Bank. These accounts had a September 30, 2022 combined balance of \$589,566.11.

10. The Fifteenth Fee Application, covering work performed during the second quarter of 2022, was approved on August 29, 2022.⁹ Those fees were paid during the Reporting Period.

11. If the Court approves this Fee Application, the Receiver will pay the approved fees and expenses from the Receivership account. Given the amount requested, the Receivership account has sufficient funds to pay these fees and expenses.

IV. REQUEST FOR COURT APPROVAL OF FEES AND EXPENSES

12. The Receivership Order provides, in relevant part, that:

72. The Receiver and Retained Personnel are entitled to reasonable compensation and expense reimbursement which shall be paid from the receivership estate upon approval of a filed motion for the payment of fees and expenses. The parties shall have 14 days to file a response to any such motion.

⁹Docket no. 1221, filed June 21, 2022.

73. Unless otherwise ordered, within 45 days after the end of each calendar quarter, the Receiver and Retained Personnel shall apply by motion to the Court for compensation and expense reimbursement from the receivership estate (the “Quarterly Fee Motions”). At least 30 days prior to the filing of each Quarterly Fee Motion with the Court, the Receiver shall serve upon counsel for the United States a complete copy of the proposed motion, together with all exhibits and relevant billing information.

74. All Quarterly Fee Motions will be interim and will be subject to cost benefit and final reviews at the close of the receivership. . . .¹⁰

13. The Receiver now respectfully requests that the Court enter an Order approving on an interim basis and authorizing payment from the Receivership Estate of the reasonable compensation and expenses outlined herein for the Application Period of July 1, 2022 through September 30, 2022. The total fees and expenses requested for the Receiver and his Retained Professionals are \$41,406.00, which are summarized in the table below:

	RECEIVER AND KLEIN AND ASSOCIATES	PARR BROWN	MANNING CURTIS	LONE PEAK
Fees	\$18,450.00	\$22,956.00	\$0.00	\$0.00
Expenses	\$0.00	\$0.00	\$0.00	\$0.00
TOTAL	\$18,450.00	\$22,956.00	\$0.00	\$0.00

14. A summary and detailed description of the work performed by the Receiver is attached as **Exhibit A**.¹¹

15. Parr Brown’s fees for the Application Period are categorized in four separate matter numbers: (a) Matter 1 – Administration of Receivership Estate; (b) Matter 2 – Asset Analysis and Recovery; (c) Matter 3 – Appeal; (d) Matter 4 – Litigation. Detailed invoices showing Parr

¹⁰[Receivership Order ¶¶ 72-74.](#)

¹¹See Exhibit A-1 (Receiver and Klein and Associates Summary of Fees); Exhibit A-2 (Parr Brown Summary of Fees); Exhibit B-1 (Invoices for Services of Receiver and Klein and Associates); and Exhibit B-2 (Invoices and Expenses for Services of Parr Brown).

Brown's work are attached as **Exhibit B**. Summaries of the expenses incurred are included in the invoices.

16. In compliance with paragraph 73 of the Receivership Order, the Fee Application, including the invoices in **Exhibits A and B**, were provided to Plaintiff and after review and comment, the United States has informed the Receiver it has no objection to the fees and expenses requested.

17. The Receiver and his professionals understand that the authorization and payment of fees and expenses is interim in nature. All fees and expenses allowed on an interim basis will be subject to final review at the close of the case and the discharge of the Receiver when the Receiver files a final accounting and final fee application.

18. The Receiver and his Retained Professionals each certify that they have read the Fee Application and that to the best of their knowledge, information, and belief formed after reasonable inquiry, the Fee Application and all fees and expenses therein are true and accurate.

19. The Receiver and his Retained Professionals affirm that the fees and expenses included herein were incurred in the best interests of the Receivership Estate and that neither the Receiver nor any of his Retained Professionals have entered into any agreement, written or oral, express or implied, with any person or entity concerning the amount of compensation paid or to be paid from the Receivership Estate, or any sharing thereof.

V. CONCLUSION

20. The Receiver respectfully submits this Fee Application and requests that the Court enter an Order approving the actual and necessary fees and expenses incurred on behalf of and for the benefit of the Receivership Estate. For all the reasons stated, the Receiver submits that he

and his Retained Professionals have provided a significant benefit to the Receivership Estate. There are sufficient funds in the Operating Account to pay the fees and expenses requested herein.

21. A proposed Order is attached hereto as **Exhibit C**.

The Receiver, Klein and Associates, and Parr Brown verify under penalty of perjury that the foregoing is true and correct.

DATED this 10th day of November 2022.

RECEIVER

/s/ Wayne Klein

WAYNE KLEIN, Receiver

PARR BROWN GEE & LOVELESS, P.C.

/s/ Jeffery A. Balls

Jonathan O. Hafen

Jeffery A. Balls

Attorneys for R. Wayne Klein, Receiver

CERTIFICATE OF SERVICE

I hereby certify that the above **SIXTEENTH INTERIM FEE APPLICATION FOR RECEIVER AND RECEIVER'S PROFESSIONALS FOR SERVICES RENDERED FROM JULY 1, 2022 THROUGH SEPTEMBER 30, 2022** was filed with the Court on this 10th day of November 2022 and served via ECF on all parties who have requested notice in this case.

Notice was also mailed by U.S. Mail to the following Receivership Defendants:

Neldon Johnson
Post Office Box 95332
South Jordan, Utah 84095

R. Gregory Shepard
10672 Winter Haven Court
South Jordan, Utah 84123

/s/ Wendy V. Tuckett