

Jonathan O. Hafen (6096) (jhafen@parrbrown.com)
Jeffrey A. Balls (12437) (mballs@parrbrown.com)
PARR BROWN GEE & LOVELESS, P.C.
101 South 200 East, Suite 700
Salt Lake City, Utah 84111-3105
Telephone: (801) 532-7840

Attorneys for Court-Appointed Receiver Wayne Klein

**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.

**RECEIVER'S SIXTEENTH
MOTION FOR APPROVAL TO
CONSUMMATE SETTLEMENTS**

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

District Judge David Nuffer

R. Wayne Klein, the Court-Appointed Receiver (the "Receiver") of RaPower-3, LLC ("RaPower-3"), International Automated Systems, Inc. ("IAS"), and LTB1, LLC ("LTB1") (collectively "Receivership Entities"), as well as certain affiliated subsidiaries and entities, and the assets of Neldon Johnson ("Johnson") and R. Gregory Shepard ("Shepard") (collectively "Receivership Defendants"), hereby submits this Sixteenth Motion for Approval to Consummate Settlements. In support hereof, the Receiver states as follows:

BACKGROUND AND ANALYSIS

1. On October 31, 2018, the Receivership Estate was created with the entry of the Receivership Order (the “Order”).¹ On May 24, 2019, the Court granted the Receiver leave to commence litigation against designated categories of persons.²

2. The Court has granted fifteen prior motions by the Receiver seeking approval to consummate settlements.

3. As a compromise of litigation brought by the Receiver, two additional defendants have entered into settlement agreements and releases (“Settlement Agreements”) with the Receiver. The settlement agreements are designed to bring an additional \$21,000.00 into the Receivership Estate. The Settlement Agreements (a) have been negotiated at arm’s length and in good faith by the Receiver and the defendant, (b) will avoid the expense, delay and inherent risks of further litigation on the merits of the Receiver’s claim and collection of a judgment already obtained, and (c) should result in the collection of funds for the benefit of the Receivership Estate.

4. Based on the above factors, the Receiver has determined that the Settlement Agreements are in the best interest of the Receivership Estate.³

¹Docket No. 490. A Corrected Order was filed the next day on November 1, 2018. See Docket No. 491.

²Docket No. 673, filed May 24, 2019.

³“In evaluating proposed settlements in equity receiverships . . . the Court should inquire whether the action to be taken is ‘in the best interest of the receivership.’” *SEC v. Am. Pension Servs., Inc.*, No. 214CV00309RJSDBP, 2015 WL 12860498, at *10 (D. Utah Dec. 23, 2015) (quoting *SEC v. Capital Consultants, LLC*, No. Civ. 00-1290-KI, 2002 WL 31470399 (D. Ore. March 8, 2002).

5. The Settlement Agreements have been approved by counsel for the United States.

The Settlement Agreements, which provide they are subject to Court approval, are summarized below:

a. Richard Jameson, North Star Tax Services. The Receiver filed suit against Richard Jameson and his company, North Star Tax Services, on October 25, 2019 seeking the return of \$18,942.44 in improper payments he received from the Receivership Entities, including expert witness fees. Jameson separately filed a lawsuit against the United States in the Court of Federal Claims, seeking a declaration that he had no tax obligations relating to solar lenses. Because Jameson believed the Court of Federal Claims matter involved the same underlying issues as the Receiver's lawsuit, Jameson agreed to a settlement with the Receiver by which Jameson agreed to pay the Receiver \$16,000.00 if Jameson did not completely prevail in his Court of Federal Claims action. On September 21, 2022, Jameson's action in the Federal Court of Claims was dismissed, constituting the "condition fulfillment" of his settlement with the Receiver. Thus, upon approval of this agreement by the Court, Jameson will be obligated to pay \$16,000 to the Receivership Estate.

The Receiver learned that James died on May 30, 2022. If this Settlement Agreement is approved by the Court, the Receiver will seek recovery from assets of North Star Tax Services and from the estate of Jameson. The Receiver has found no

evidence that Jameson's estate has been probated and may need to seek the appointment of a personal representative in order to collect from Jameson's assets.⁴

b. Robert Tilden. The Receiver filed suit against Tilden on October 19, 2019 and obtained a default judgment against him in the amount of \$43,775.40 plus prejudgment interest in the amount of \$9,948.41. The Receiver subsequently identified a bank account owned by Tilden and garnished the \$6,166.16 in the account. Tilden filed an objection, claiming those funds were the proceeds of retirement payments to him. Magistrate Judge Kohler held several hearings at which Tilden asserted that the garnished funds were retirement proceeds. Judge Kohler directed Tilden to provide bank records to the Receiver to substantiate Tilden's claim, but Tilden provided only account summaries for limited time periods. Tilden represented to the Receiver that he owns no property, his only car is 20 years old, and that he had lost over \$100,000 from his purchases of IAS stock. Based on this evidence of an inability to pay the judgment, the Receiver offered this settlement. As part of the settlement, Tilden, who had been a vocal promoter of the solar lens scheme, is admitting that he received commissions, he is not aware of any lens purchaser who made money, IAS never produced any electricity that was commercially viable, and that IAS never produced any commercially viable clean water systems. The settlement includes a mutual release of claims. Tilden has paid the \$5,000 to the Receiver. If the settlement is approved by the Court, the Receiver will withdraw the garnishment and file a satisfaction of judgment.

⁴Jameson's counsel, Justin Heideman, has indicated he may oppose this motion on behalf of North Star Tax Services and Jameson's estate.

CONCLUSION

The Receiver moves the Court to approve the Settlement Agreements described herein.

DATED this 15th day of November 2022.

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 **RECEIVER'S SIXTEENTH MOTION FOR APPROVAL TO CONSUMMATE SETTLEMENTS** was filed with the Court on this 15th day of November 2022 and served via ECF on all parties who have requested notice in this case.

/s/ Wendy V. Tuckett