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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 MOTION TO ASSIGN  
ADDITIONAL JUDGMENT TO  
PLAINTIFF, UNITED STATES**

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

District Judge David Nuffer

Magistrate Judge Daphne A. Oberg

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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 Motion to Assign Additional Judgment to Plaintiff, United States. In support hereof, the Receiver states as follows:

### **BACKGROUND**

1. On October 31, 2018, the Receivership Estate was created with the entry of the Receivership Order, followed by a Corrected Receivership Order (“Order” or “CRO”).<sup>1</sup> Pursuant to the Order, the Receiver was appointed, and all of the Receivership Defendants’ assets were placed under the Receiver’s control. The Order authorizes and empowers the Receiver to, among other things, investigate, prosecute, and compromise actions to recover Receivership Property.<sup>2</sup>

2. On May 24, 2019, the Court granted the Receiver leave to commence litigation and the Receiver subsequently filed over 80 lawsuits against persons who improperly received funds from Receivership Entities. Numerous judgments in favor of the Receiver have been obtained in that litigation, including default judgments, stipulated judgments, and summary judgments.

3. After consultations, the Receiver and the United States agree that amounts owed on the summary judgments can be collected most effectively, efficiently, and cost-effectively by the United States. Therefore, the Receiver asks the Court to enter the proposed order, attached to this motion as Exhibit A, assigning certain unpaid judgments obtained by the Receiver to the United States. The United States supports this motion.

4. On May 31, 2022, the Court granted the Receiver’s previous motion to assign seven judgments to the United States, subject to certain conditions.<sup>3</sup>

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<sup>1</sup>Docket No. 490. The Corrected Receivership Order was issued the next day, November 1, 2018. Docket No. 491.

<sup>2</sup>*Id.* at ¶ 59.

<sup>3</sup>Docket No. 1214, filed May 31, 2022.

### **JUDGMENT TO BE ASSIGNED**

5. The unpaid judgment to be assigned to the United States pursuant to the instant motion is listed in the table below. Additional motions may be filed in the future seeking approval to assign default judgments, stipulated judgments, judgments on cases currently on appeal, and judgments obtained in the future.

<b>Defendant</b>	<b>Case No.</b>	<b>Judgment Date</b>	<b>Judgment Amount</b>	<b>Pre-Judgment Interest</b>
Shepard, Matthew	2:19-cv-533	7/5/22	\$141,763.22	\$24,857.11

### **ANALYSIS**

One of the Receiver’s mandates under the CRO is to “take custody, control, and possession of all Receivership Property.”<sup>4</sup> In pursuit of that mandate, the Receiver was empowered “to sue for *and collect*, recover, receive, and take into possession from third parties all Receivership Property.”<sup>5</sup> The judgment to be assigned is property of the Receivership Estate. As such, the judgment is under the exclusive jurisdiction and possession of the Court.<sup>6</sup>

The CRO provides that the Receiver *may* transfer to others any Receivership Property (other than real estate) in the ordinary course of business, “after consultation with counsel for the United States” and “without further order of this Court.”<sup>7</sup> In so doing, the Receiver should act “in the manner the Receiver deems most beneficial to the receivership estate and with due regard for the realization of the true and proper value of such Receivership Property.”<sup>8</sup> The CRO

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<sup>4</sup>CRO ¶ 13(b).

<sup>5</sup>*Id.* (emphasis added).

<sup>6</sup>*Id.* ¶ 2.

<sup>7</sup>*Id.* ¶ 54.

<sup>8</sup>*Id.*

provides that the receiver also may seek “further order of this Court”<sup>9</sup> regarding Receivership Property and “take such other action as may be approved by this Court.”<sup>10</sup>

For the reasons described in the Receiver’s prior motion to assign judgments to the United States, the Receiver believes assignment of this judgment to the United States represents the best use of Receivership assets and will maximize the amounts that will be paid to the United States Treasury, as the primary beneficiary of this Receivership. The United States supports this motion.

If this assignment is approved, the Receiver will report to the Court annually on the amount the United States has collected on these assigned judgments. This will ensure that collections by the United States are credited to the second priority under the CRO. Upon approval, the Receiver will file a notice of assignment in the case underlying the assigned judgment.

### **CONCLUSION**

The Receiver moves the Court to approve the assignment of the judgment listed above to the United States. A proposed order is attached as Exhibit A.

DATED this 16th 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*

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<sup>9</sup>*Id.* ¶ 13(c).

<sup>10</sup>*Id.* ¶ 13(r).

**CERTIFICATE OF SERVICE**

I hereby certify that the above **RECEIVER'S MOTION TO ASSIGN ADDITIONAL JUDGMENT TO PLAINTIFF, UNITED STATES** was filed with the Court on this 16th day of November, 2022 and served via ECF on all parties who have requested notice in this case.

Copies were also sent by mail to:

Neldon Johnson  
Post Office Box 95332  
South Jordan, Utah 84095

R. Gregory Shepard  
10672 South Winter Haven Court  
South Jordan, Utah 84095-2486

/s/ Wendy V. Tuckett