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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 EIGHTH SPECIAL  
REPORT ON STATUS OF  
SETTLEMENTS AND LITIGATION**

*As of November 16, 2022*

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 Eighth Special Report on Status of Settlements and Litigation (“Report”), from August 16, 2022 to November 16, 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> Also

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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.

in May 2019, the Court authorized the Receiver to commence legal proceedings.<sup>3</sup> This Report summarizes the progress to date of settlements and ongoing litigation.

The most significant changes since the prior Litigation Status Report are:

1. One delinquent defendant paid the full amount of his settlement;
2. Garnishment hearings were concluded in the cases of the three judgment defendants who opposed garnishment orders granted to the Receiver;
3. One of the garnishment cases resulted in a settlement agreement and the condition precedent to another settlement occurred, making that settlement agreement final (the Receiver has moved for approval of both of these settlements), which will reduce the number of pending, unresolved cases to seven;
4. Three pending lawsuits have been reassigned back to Judge Nuffer; and
5. Final trial preparations are in process for the January combined trial against Christopher Taylor and Curtis Snow.

## **II. SETTLEMENTS**

A. Approved Settlements. The Receiver has filed 16 motions for approval of settlement agreements, 15 of which have been approved. The status of these settlements are:

<b>Settlement Agreements Paid in Full as of November 16, 2022</b>	
71 settlement agreements have been paid in full and dismissed or judgments entered.	

<b>Settlement Agreements Paid in Full Since August 15, 2022</b>			
<b>Name</b>	<b>Case Number</b>	<b>Case Status</b>	<b>Payment Status</b>
Luke, Shane	2:19-cv-688	Dismissed	Paid in full

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

<b>Settlement Agreements With Installment Payments Being Made</b>				
<b>Name</b>	<b>Case Number</b>	<b>Case Status</b>	<b>Prior</b>	<b>Current</b>
Aulds, Robert	2:19-cv-00192-DN-PK	Dismissed	54%	61%
Bell Energy	2:19-cv-00804-DN-PK	Dismissed	72%	72%
Black, Scott	2:19-cv-00678-DN-PK	Dismissed	56%	56%
Day, Thomas	2:19-cv-00692-DN-PK	Dismissed	60%	66%
Heideman & Assoc.	2:19-cv-00854-DN-PK	Dismissed	17%	33%
Kinsey, Ed	2:19-cv-00729-DN-PK	Dismissed	21%	26%
Newman, Kirk	2:19-cv-00694-DN-PK	Judgment	78%	89%
Newman, Ina	2:18-cv-00623-DN-PK	Dismissed	49%	56%
Shepard, Mark	2:19-cv-00803-DN-PK	Dismissed	63%	68%
Woodson, James	2:19-cv-00794-DN-PK	Judgment	59%	66%

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

<b>Name</b>	<b>Case Number</b>	<b>Amount Owed</b>	<b>Amount 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.
Black, Scott	2:19-cv-00678	\$6,800.00	\$3,800.00	Delinquent: 56% paid
Searcy, Richard	2:19-cv-00776	\$56,000.00	\$6,000.00	Delinquent: 11% paid

### **III. ASSIGNMENTS OF SUMMARY JUDGMENTS**

On November 16, 2022, the Receiver filed a motion to assign the Matthew Shepard judgment to the United States.<sup>4</sup> The Receiver and the United States have signed an assignment agreement for this judgment. A notice of assignment will be filed if the Court approves the assignment. The United States has had some success in collecting judgments assigned previously, which will be reported in the next quarterly status report.

<b>Defendant</b>	<b>Case Number</b>	<b>Judgment Date</b>	<b>Judgment Amount</b>	<b>Pre-Judgment Interest</b>
Shepard, Matthew	2:19-cv-00533	7/5/22	\$141,763.22	\$24,857.11

<sup>4</sup>Docket no. 1233, filed November 16, 2022.

#### **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 Number</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>5</sup>	2:19-cv-00792	10/5/21	\$303,950.00	\$55,960.11
Frandsen, Jay D. <sup>6</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

#### **V. GARNISHMENTS**

Magistrate Judge Kohler concluded hearings on the following garnishment objections:

<b>Garnishee</b>	<b>Last Event</b>	<b>Date</b>	<b>Status</b>
Hadderton, Cary	9/17/22	Court order	Court overruled objection, ordered payout of garnished funds. Receiver is evaluating whether garnished funds might be exempt.
Howell, John	9/12/22	Court order	Court overruled objections, ordered payout of \$51,983.86 in garnished funds.
Tilden, Robert	11/4/22	Settlement	Tilden paid \$5,000 in settlement; Receiver has filed motion for settlement approval.

<sup>5</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>6</sup>The litigation against a co-defendant, Larry T. Hutchings, has been dismissed.

## **VI. APPEALS**

As of November 16, 2022, appeals by the seven defendants listed below were still 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 Number</b>	<b>Appeal Number</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>7</sup>
Finkes, Reinhold	2:19-cv-00761	21-4090	7/22/21	Oral argument 5/19/22 <sup>8</sup>
Hadderton, Carey	2:19-cv-00704	21-4077	6/10/21	Oral argument 5/19/22
Hamblin, Roger <sup>9</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>10</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

## **VII. DISMISSED LITIGATION**

The lawsuit against Jeron Johnson (2:19-cv-799) was dismissed on August 24, 2022.

<sup>7</sup>The Receiver has collected \$1,061.93 on this judgment via garnishment proceedings.

<sup>8</sup>The Receiver has collected \$201.30 on this judgment via garnishment proceedings.

<sup>9</sup>A filing with the Tenth Circuit indicates that Mr. Hamblin died in January 2022.

<sup>10</sup>Trudy Shepherd deposited the amount of the judgment with the Receiver, to avoid garnishment proceedings, but is continuing her appeal.

**VIII. OTHER LITIGATION**

The eight lawsuits filed by the Receiver that are still pending fall into three categories: cases on hold (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 Number</b>	<b>Type of Case</b>	<b>Status/Next Deadline</b>
Jameson, Richard	2:19-cv-00822	Expert	Jameson's Court of Claims lawsuit was dismissed. The Receiver has moved for approval of a previously negotiated settlement agreement with Jameson.

<b>Summary Judgment Motions Pending</b>			
<b>Name</b>	<b>Case Number</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. Parties filed supplemental briefing on effect of Tenth Circuit <i>Georgelas</i> ruling.
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. Parties filed supplemental briefing on effect of Tenth Circuit <i>Georgelas</i> ruling.
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.

Cases With Upcoming Trial Dates			
Name	Case Number	Type of Case	Status/Next Deadline
Johnson, Glenda	2:19-cv-00625	Insider	Case reassigned back to Judge Nuffer. Expert deadline is 8/2/23. Trial set for 2/12/24.
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 back to Judge Nuffer. Case combined with Taylor case for trial. Trial set for 1/9/23.
Taylor, Christopher	2:19-cv-00816	Insider	Case reassigned back to Judge Nuffer. Case combined with Snow case for trial. Trial set for 1/9/23.

### IX. CONCLUSION

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

/s/ Wayne Klein

Wayne Klein  
Receiver

DATED this 28<sup>th</sup> day of November 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 EIGHTH SPECIAL REPORT ON STATUS OF LITIGATION** was electronically filed with the Clerk of the Court through the CM/ECF system on November 28, 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  
4933 South Murray Boulevard, Apartment U28  
Salt Lake City, Utah 84123-2641

/s/ Wendy V. Tuckett