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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.

**RECEIVER'S SEVENTEENTH
QUARTERLY STATUS REPORT**

*For the period October 1, 2022 to
December 31, 2022*

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

District Judge David Nuffer

R. Wayne Klein, the Court-Appointed Receiver (the “Receiver”) in this matter, hereby submits this Seventeenth Quarterly Status Report (“Report”) for the period from October 1, 2022 to December 31, 2022 (“Reporting Period”).

I. INTRODUCTION AND BACKGROUND

The Receivership Estate was created on October 31, 2018 with entry of the Court’s *Receivership Order* (“Order”),¹ which, among other things, appointed the Receiver and

¹[Docket no. 490](#). A *Corrected Receivership Order* (“CRO”), which corrected formatting errors, was entered the following day. [Docket no. 491](#), filed November 1, 2018.

continued a previously entered asset freeze.² A May 3, 2019 order expanded the Receivership Estate to include 13 additional affiliated entities (“Affiliated Entities”).³

The number of tasks remaining to be accomplished continues to decrease. The last available property was sold at auction and the sale closed. Two additional settlements were achieved and another judgment was assigned to the United States. Preparations continue for the remaining trials.

II. ASSET RECOVERY, SETTLEMENTS

A. Settlements. The Receiver filed his sixteenth motion to approve settlements on November 15, 2022.⁴ The two settlements included in that motion will bring in \$21,000.00, of which \$5,000 has already been received on the Tilden settlement. The \$16,000 due on the Jameson settlement is an unusual situation because Jameson’s lawsuit against the United States was dismissed—making the settlement agreement effective—but Jameson has died. The settlement motion is still pending. During the quarter, the Receiver received \$49,703.54 on the Tilden settlement and previous settlement agreements.

B. Garnishments. In September, Judge Kohler overruled John Howell’s objections to three writs of garnishment granted to the Receiver. Three banks subsequently turned over \$52,933.67 to the Receiver from accounts of Mr. Howell. Judge Kohler’s orders that Robert Tilden provide copies of his bank records led to a settlement agreement between the Receiver and Mr. Tilden (referenced above).

²*Memorandum Decision and Order Freezing Assets and to Appoint a Receiver*, [Docket no. 444](#), filed August 22, 2018.

³[Docket no. 636](#), filed May 3, 2019.

⁴[Docket no. 1232](#), filed November 15, 2022.

III. ASSIGNMENTS TO, COLLECTIONS BY THE UNITED STATES

In December, the Court granted the Receiver's motion to assign to the United States the judgment the Court entered against Matthew Shepard.⁵ The Receiver has now assigned seven judgments to the United States.

Counsel for the United States reported to the Receiver that the United States has recovered \$117,699.81 on the six judgments assigned earlier this year. This reflects collection of the full principal amount on two of the judgments—excluding pre- and post-judgment interest.⁶ The United States reported to the Receiver that it is continuing its collection efforts on the remaining assigned judgments.

IV. REAL PROPERTY SALES

A. Status of Receivership Properties. Four real properties were held by the Receivership Estate at the beginning of the Reporting Period. The sale of one property closed during the quarter, leaving only the three properties that are subject to a purchase option.

1. Property Sold: 4.6 Acre Site Next to Original Tower Site. Neldon Johnson had previously divided the original 80-acre tower site into a 75.6-acre site with the towers (which was titled in the name of IAS and sold previously) and a 4.6-acre site with a well and rights to ten acre-feet of water (which was titled in the name of Glenda Johnson). The appraiser valued the 4.6-acre site (without water) at \$37,000. The Receiver determined that the water rights were not easily severable from the property, so the property and water rights were offered for \$100,000. He received an offer of \$65,000

⁵[Docket no. 1238](#), filed December 5, 2022.

⁶Counsel for the United States reported that it decided to accept these amounts in full satisfaction of the judgments.

and the Court approved the sale of the property at auction. No other bidders prequalified to bid, so the auction was canceled, and the sale closed to the stalking horse bidder. The sale netted \$60,244.97. The Receiver filed a notice of property sale results.⁷

2. Purchase Option on 1,000 Acres for Photovoltaic Solar Development. The Court previously approved the Receiver's grant of a purchase option for three parcels, containing 1,000 acres, to 8minute Energy.⁸ 8minute Energy has since changed its name to Avantus. The company has made required option payments for 2021 and 2022.

Option payments for 2023 were paid in January 2023 and will be discussed in the next quarterly report. Approximately two and a half years remain on the purchase option.

B. List of Properties in the Receivership Estate. Attached as Exhibit 1 is a table showing the status of all real properties in the Receivership Estate.

V. LITIGATION

A. Special Report on Status of Litigation. The Receiver filed an eighth special report on the status of litigation in November,⁹ summarizing the status of settlement payments, summary judgment motions, default judgments, and ongoing litigation. The Receiver will continue filing similar reports every three months, so long as significant litigation remains.

B. Active Recovery Litigation. As of the end of the Reporting Period, seven lawsuits filed by the Receiver were still pending.¹⁰ Two were resolved early in January 2023, after the

⁷[Docket no. 1231](#), filed November 15, 2022.

⁸[Docket no. 1117](#), filed April 20, 2021.

⁹[Docket no. 1234](#), filed November 28, 2022.

¹⁰The status of one litigation case is still undetermined. The Receiver's suit against Richard Jameson had been on hold, pending resolution of Jameson's lawsuit in the court of claims. Jameson's lawsuit was dismissed, leading the Receiver to seek Court acceptance of a settlement agreement that Jameson had signed earlier.

end of the Reporting Period (Snow and Taylor). Summary judgment motions are pending in three other cases (LaGrand Johnson, Randale Johnson, and Plaskolite) and the remaining two have trials set for early 2024.

C. Appeals. Seven appeals by commission recipients remain pending.

D. Criminal Contempt Charges Filed. Trial on the criminal contempt charges against Neldon Johnson and Glenda Johnson was continued again. Trial is now set for January 30, 2023.¹¹

VI. FINANCIAL OPERATIONS OF THE RECEIVERSHIP ESTATE

A. Receipts and Disbursements. The tables below show the amounts and sources of funds brought into the Receivership Estate during the quarter and categories of expenditures:

Revenue into the Receivership Estate	
Source of Revenue	Amount In
Real estate: sale proceeds	\$60,244.47
Garnishment recoveries	\$52,933.67
Settlement payments	\$49,703.54
Interest earnings	\$109.40
Total	\$162,991.08

Expenditures	
Type of Expenditure	Amount
Real estate: property taxes	\$3,427.30
Operating expenses ¹²	\$722.10
Total	\$4,149.40

The Receiver's fee application for work performed during the third quarter was approved in November.¹³ Payments totaling \$41,406.00 were paid to the Receiver and his counsel.

¹¹2:21-cr-513.

¹²The bulk of these expenses were for storage unit rental (\$354.00) and publication of an auction notice (\$296.40).

¹³[Docket no. 1235](#), filed November 28, 2022.

B. Bank Account Balances. The following table shows the balances of funds in the Receivership accounts at Wells Fargo Bank and Wells Fargo Advisors as of December 31, 2022:

Account Balances	
Account	Amount
Checking account	\$49,888.98
Bank savings account	\$57,406.77
Money market fund ¹⁴	\$600,002.47
Total	\$707,299.22

C. Distributions to the U.S. Treasury. The Receiver has distributed \$9,000,000 to the U.S. Treasury to date. The most recent distribution was December 20, 2021. The Receiver is retaining a significant amount in the Receivership Estate to cover expected litigation expenses.

VII. NEXT STEPS

The remaining tasks for the Receivership are:

A. Ongoing Litigation. Litigation will continue in the five cases actively being litigated.¹⁵ The Receiver also may be asked to provide information or documents relating to the criminal charges filed against Neldon and Glenda Johnson.

B. Appeals. The Receiver is awaiting ruling on the seven appeals still pending.

C. Managing Remaining Properties. The Receiver will continue managing the three properties subject to the purchase option, including paying property taxes and ensuring collection of the option payments.

¹⁴A money market account was opened in late December at Wells Fargo Advisors to increase interest earnings.

¹⁵This number excludes a settlement and trial early in January 2023 and the pending motion to approve settlement of a pending litigation.

VIII. CONCLUSION

Progress continues in accomplishing the objectives of the Receivership. Because so much has been accomplished, the pace of developments is slower. The last available property has been sold. Trials have begun. More settlement obligations are becoming satisfied. Nevertheless, the most difficult litigation cases remain to be resolved through summary judgment motions or trial.

The Receiver certifies that the information in this Seventeenth Quarterly Status Report is accurate to the best of his knowledge.

/s/ Wayne Klein

Wayne Klein
Receiver

DATED this 17th day of January, 2023.

PARR BROWN GEE & LOVELESS

/s/ Jeffery A. Balls

Jonathan O. Hafen
Jeffery A. Balls
Attorneys for Receiver

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that service of the above **RECEIVER'S SEVENTEENTH QUARTERLY STATUS REPORT** was electronically filed with the Clerk of the Court through the CM/ECF system on January 17, 2023, which sent notice of the electronic filing to all counsel of record. Copies were also mailed to the following:

R. Gregory Shepard
4933 South Murray Boulevard, Apartment U28
Salt Lake City, Utah 84123-2641

Neldon Johnson
Post Office Box 95332
South Jordan, Utah 84095

Pro se Defendants

/s/ Wendy V. Tuckett