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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 EIGHTEENTH  
QUARTERLY STATUS REPORT

*For the period January 1, 2023 to  
March 31, 2023*

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”) in this matter, hereby submits this Eighteenth Quarterly Status Report (“Report”) for the period from January 1, 2023 to March 31, 2023 (“Reporting Period”).

I. INTRODUCTION AND BACKGROUND

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

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<sup>1</sup>[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.<sup>2</sup> A May 3, 2019 order expanded the Receivership Estate to include 13 additional affiliated entities (“Affiliated Entities”).<sup>3</sup>

The focus of the Receivership continues to narrow, with attention concentrated on collecting judgment amounts, completing litigation, and awaiting disposition of real property. Litigation is moving forward. A successful jury trial was concluded in January. Partial summary judgment was granted in two pending litigations. Status reports were prepared relating to lawsuits filed by Neldon Johnson. Preparations continue for the remaining trials.

## II. ASSET RECOVERY, SETTLEMENTS

A. Settlements. On January 26, 2023, the Court granted the Receiver’s sixteenth motion for approval of settlements, approving two settlements that will bring in \$21,000.00.<sup>4</sup> The Receiver filed his seventeenth motion to approve settlements on January 3, 2023, involving a \$73,000.00 settlement with Christopher Taylor, which the Court approved on January 4, 2023.<sup>5</sup> During the quarter, the Receiver received \$51,007.51 on the Taylor settlement and previous settlement agreements.

B. Garnishments. No additional garnishment funds were received during the quarter.

## III. ASSIGNMENTS TO, COLLECTIONS BY, THE UNITED STATES

In the near future, the Receiver intends to seek court approval to assign additional judgments and several delinquent settlement agreements to the United States.

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

<sup>3</sup>[Docket no. 636](#), filed May 3, 2019.

<sup>4</sup>Docket no. 1243, filed January 26, 2023.

<sup>5</sup>Docket no. 1241, filed January 4, 2023.

#### IV. REAL PROPERTY SALES

A. Status of Receivership Properties. The Receivership Estate now holds only the three properties that are subject to a purchase option. The option holders paid their 2023 annual option fee in January. The option period extends to 2025.

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

#### V. LITIGATION

A. Special Report on Status of Litigation. The Receiver filed a ninth special report on the status of litigation, summarizing the status of settlement payments, summary judgment motions, default judgments, and ongoing litigation.<sup>6</sup> 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, five lawsuits filed by the Receiver were still pending.<sup>7</sup> During the quarter, the Court granted the Receiver partial summary judgment in his lawsuits against LaGrand Johnson and Randale Johnson. The Receiver intends to dismiss some of the claims against the Johnson brothers. A scheduling order has been entered, with the joint trial set to begin September 15, 2023. Cross summary judgment motions are pending in the Receiver's case against Plaskolite. Trials are set for 2024 against Glenda Johnson and Nelson Snuffer Dahle & Poulsen.

C. Collection Litigation: Jameson. The Receiver filed a petition to appoint a personal representative for the estate of Richard Jameson, which the Utah Fifth District Court granted on

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<sup>6</sup>Docket no. 1245, filed March 1, 2023.

<sup>7</sup>The Receiver still has a minor role in one additional case, against Richard Jameson. This is discussed next.

April 5, 2023—shortly after the end of the Reporting Period. On April 6, 2023, this Court ruled that Jameson’s estate has not filed and served proper notice of Jameson’s death, leaving the Receiver’s lawsuit against Jameson still open. The Receiver intends to move to substitute Jameson’s newly appointed personal representative as defendant in the Receiver’s suit against Jameson.

D. Appeals. Seven appeals by commission recipients remain pending. The case was argued and submitted on May 19, 2022. Supplemental authority was submitted on September 16, 2022.

E. Criminal Contempt Charges Filed. Trial on the criminal contempt charges against Neldon Johnson and Glenda Johnson has been continued. A scheduled June 5, 2023 trial has been vacated, based on Neldon Johnson’s poor health.<sup>8</sup>

F. Lawsuits Filed by Neldon Johnson. Three lawsuits that had been filed by Neldon Johnson were pending at the time the Receiver was appointed. Those lawsuits were stayed as a result of the CRO.

1. Thomas Mancini. At the request of the Receiver, Johnson’s lawsuit against DOJ trial expert Thomas Mancini was dismissed with prejudice on April 4, 2023, again shortly after the end of the reporting period.<sup>9</sup>

2. State Court Injunctive Action. On October 16, 2018, Johnson filed a lawsuit in Utah’s Fourth District Court, naming the Internal Revenue Service, the U.S. Department of Justice, and Judge Nuffer as defendants. The United States removed the action to

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<sup>8</sup>2:21-cr-513.

<sup>9</sup>Docket no. 32, filed April 4, 2023 in case no. 4:18-cv-087-DN-PK.

federal court on October 31, 2018 and filed a motion to dismiss the lawsuit.<sup>10</sup> Before the dismissal motion was heard, the removed case was stayed. At the request of Circuit Judge Tymkovich, who presides over that case, the Receiver filed a status report on March 31, 2023. In that report, the Receiver noted that Johnson's lawsuit seeks only monetary damages which, if awarded, would be an asset of the Receivership Estate. The Receiver recommended to Judge Tymkovich that Mr. Johnson not be allowed to pursue that litigation and that the lawsuit continue to be stayed or that the stay be lifted to allow consideration of the United States' motion to dismiss. The United States joined in the Receiver's recommendation.

3. Federal Court Injunctive Action. Johnson filed a lawsuit in federal court against the Department of Justice, the Internal Revenue Service, and Judge Nuffer on September 20, 2018.<sup>11</sup> The United States filed a motion to dismiss that lawsuit, but the case was stayed before the dismissal motion was decided. This case also has been assigned to Circuit Judge Tymkovich. In a March 31, 2023 status report, the Receiver recommended that Johnson not be allowed to pursue any claims for monetary damages, which would be assets of the Receivership Estate. The Receiver also expressed a belief that these claims lack merit. As to Johnson's injunctive claims, the Receiver expressed his view that it is likely that Johnson's claims have been mooted by subsequent court rulings and the multiple appeals filed by Johnson, but the Receiver had no objection to the lifting of the

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<sup>10</sup>Case no. 4:18-cv-0073.

<sup>11</sup>Case no. 4:18-cv-062.

stay to allow consideration of the United States' motion to dismiss. The United States joined in the Receiver's recommendation.

## 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: option payment	\$45,507.53
Settlement payments	\$51,007.51
Royalty income (G. Shepard)	\$303.25
Interest earnings <sup>12</sup>	\$5,975.53
<b>Total</b>	<b>\$102,793.82</b>

Expenditures	
Type of Expenditure	Amount
Tax work (prepare 1099's)	\$865.00
Operating expenses <sup>13</sup>	\$531.23
<b>Total</b>	<b>\$1,396.23</b>

The Receiver's fee application for work performed during the fourth quarter was approved in March.<sup>14</sup> Payments totaling \$60,280.90 were paid to the Receiver and his counsel.

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	\$15,030.14
Bank savings account	\$27,622.31
Money market fund	\$705,762.46
<b>Total</b>	<b>\$748,414.91</b>

<sup>12</sup>Interest rates have increased dramatically, providing significant interest revenue for the first time.

<sup>13</sup>The bulk of these expenses were for storage unit rental (\$354.00).

<sup>14</sup>Docket no. 1246, filed March 7, 2023.

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, plus activity related to filing a substitution of parties for Jameson. The Receiver also may be asked to provide information or documents relating to the criminal charges filed against Neldon and Glenda Johnson.

B. Assignment of Judgments. The Receiver intends to seek approval to assign additional judgments and delinquent settlement agreements to the United States.

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

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

## VIII. CONCLUSION

Progress continues in accomplishing the objectives of the Receivership. Because so much has been accomplished, the pace of accomplishments is slower. More settlement obligations are becoming satisfied. Trials have begun, with the most difficult litigation cases remaining to be resolved at trial.

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

/s/ Wayne Klein

Wayne Klein  
Receiver

DATED this 21st day of April 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 EIGHTEENTH QUARTERLY STATUS REPORT was electronically filed with the Clerk of the Court through the CM/ECF system on April 21, 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