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*Attorneys for Court-Appointed Receiver Wayne Klein*

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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.

EIGHTEENTH INTERIM FEE  
APPLICATION FOR RECEIVER  
AND RECEIVER'S PROFESSIONALS FOR  
SERVICES RENDERED FROM JANUARY  
1, 2023 THROUGH MARCH 31, 2023

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

District Judge David Nuffer

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In accordance with the Corrected Receivership Order (the “Receivership Order”),<sup>1</sup> R. Wayne Klein, the Court-Appointed Receiver (the “Receiver”) of RaPower-3, LLC and related entities (“Receivership Defendants”), hereby submits this eighteenth interim “Fee Application,” seeking approval by the Court of fees and expenses incurred by the Receiver and his staff at Klein and Associates, PLLC (“Klein and Associates”), the Receiver’s legal counsel, Parr Brown Gee & Loveless, P.C. (“Parr Brown”), and the forensic accountants, Lone Peak Valuation Group

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<sup>1</sup>[Docket No. 491](#), filed Nov. 1, 2018.

(“Lone Peak”) for the period of January 1, 2023 through March 31, 2023 (the “Application Period”), and authorization to pay all authorized fees and expenses from unencumbered funds of the Receivership Estate.

In support hereof, the Receiver states as follows.

### I. BACKGROUND

1. The United States commenced this case on November 23, 2015 against Defendants RaPower-3, IAS, LTB1, Johnson, Shepard, and Roger Freeborn.<sup>2</sup> The United States alleged, and the Court found, among other things, that Defendants operated a massive tax fraud.<sup>3</sup>

2. On October 31, 2018, the Court entered its *Receivership Order* (“Order”),<sup>4</sup> which, among other things, appointed the Receiver and continued a previously entered asset freeze.<sup>5</sup>

3. Upon his appointment, and in accordance with the Receivership Order, the Receiver employed Parr Brown as his legal counsel and Lone Peak as his forensic accountants (“Retained Professionals”), and such retention was approved by the Court.<sup>6</sup>

4. During the present Application Period, the Receiver and his professionals have provided actual and necessary services for the benefit of the Receivership Estate which are set forth in greater detail below. The Receiver respectfully submits that the fees and expenses requested in the Fee Application are reasonable and should be approved.

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<sup>2</sup>Complaint, [Docket No. 2](#), filed Nov. 23, 2015.

<sup>3</sup>Amended and Restated Judgment, [Docket No. 507](#), filed Nov. 13, 2018; *Findings of Fact and Conclusions of Law*, [Docket No. 467](#), filed Oct. 4, 2018.

<sup>4</sup>[Docket No. 490](#). A *Corrected Receivership Order*, which corrected formatting errors, was entered the following day. [Docket No. 491](#), filed Nov. 1, 2018.

<sup>5</sup>Memorandum Decision and Order Freezing Assets and to Appoint a Receiver, [Docket No. 444](#), filed Aug. 22, 2018.

<sup>6</sup>[Docket No. 500](#), filed Nov. 6, 2018.

5. The Receiver submitted the Fee Application to Plaintiff for review, comment, and objection prior to filing. The Plaintiff provided comments to the Receiver, and the Plaintiff has informed the Receiver that it has no objection to the fees and expenses as requested herein.

## II. SERVICES PERFORMED

6. The actions of the Receiver and his retained professionals during the Application Period are summarized in the *Receiver's Eighteenth Quarterly Status Report* ("Eighteenth Status Report"), filed April 21, 2023.<sup>7</sup> That report indicates that the primary Receivership work during the Reporting Period was litigation, including a significant settlement, a successful jury trial, summary judgment rulings, and actions relating to litigations filed by Neldon Johnson.

7. The primary tasks remaining for the Receivership are litigating the remaining cases and awaiting action by the holder of a purchase option on three real properties. The Receiver warns that preparation for upcoming trials will require significant time by the Receiver, his counsel, and his forensic accountants.

## III. BANK ACCOUNTS OF THE RECEIVERSHIP ESTATE

8. The Receivership Estate maintains a Receivership checking account and a savings account at Wells Fargo Bank and a money market account at Wells Fargo Advisors. These accounts had a March 31, 2023 combined balance of \$748,414.91.

9. The Seventeenth Fee Application, covering work done during the fourth quarter of 2022, was approved on March 7, 2023.<sup>8</sup> These amounts were paid during the Reporting Period.

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<sup>7</sup>Docket no. 1247, filed April 21, 2023.

<sup>8</sup>Docket no. 1246, filed March 7, 2023.

10. If the Court approves this Fee Application, the Receiver will pay the approved fees and expenses from the Receivership account. Given the amount requested, the Receivership account has sufficient funds to pay these fees and expenses.

#### IV. REQUEST FOR COURT APPROVAL OF FEES AND EXPENSES

11. The Receivership Order provides, in relevant part, that:

72. The Receiver and Retained Personnel are entitled to reasonable compensation and expense reimbursement which shall be paid from the receivership estate upon approval of a filed motion for the payment of fees and expenses. The parties shall have 14 days to file a response to any such motion.

73. Unless otherwise ordered, within 45 days after the end of each calendar quarter, the Receiver and Retained Personnel shall apply by motion to the Court for compensation and expense reimbursement from the receivership estate (the “Quarterly Fee Motions”). At least 30 days prior to the filing of each Quarterly Fee Motion with the Court, the Receiver shall serve upon counsel for the United States a complete copy of the proposed motion, together with all exhibits and relevant billing information.

74. All Quarterly Fee Motions will be interim and will be subject to cost benefit and final reviews at the close of the receivership. . . .<sup>9</sup>

12. The Receiver now respectfully requests that the Court enter an Order approving on an interim basis and authorizing payment from the Receivership Estate of the reasonable compensation and expenses outlined herein for the Application Period of January 1, 2023 through March 31, 2023. The total fees and expenses requested for the Receiver and his Retained Professionals are \$128,480.25, which are summarized in the table below:

	RECEIVER	PARR BROWN	LONE PEAK
Fees	\$42,612.00	\$85,016.00	\$473.75
Expenses	\$0.00	\$378.50	\$0.00
<b>TOTAL</b>	<b>\$42,612.00</b>	<b>\$85,394.50</b>	<b>\$473.75</b>

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<sup>9</sup>[Receivership Order ¶¶ 72-74.](#)

13. A detailed description of the work by the Receiver and his staff is attached as Exhibit A.

13. Detailed invoices showing Parr Brown's work are attached as Exhibit B.  
Summaries of the expenses incurred are included in the invoices.<sup>10</sup>

14. A detailed invoice showing Lone Peak's work is attached as Exhibit C.

15. In compliance with paragraph 73 of the Receivership Order, the Fee Application, including the invoices in Exhibits A, B, and C, were provided to Plaintiff and after review and comment, the United States has informed the Receiver it has no objection to the fees and expenses requested.

16. The Receiver and his professionals understand that the authorization and payment of fees and expenses is interim in nature. All fees and expenses allowed on an interim basis will be subject to final review at the close of the case and the discharge of the Receiver when the Receiver files a final accounting and final fee application.

17. The Receiver and his Retained Professionals each certify that they have read the Fee Application and that to the best of their knowledge, information, and belief formed after reasonable inquiry, the Fee Application and all fees and expenses therein are true and accurate.

18. The Receiver and his Retained Professionals affirm that the fees and expenses included herein were incurred in the best interests of the Receivership Estate.

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<sup>10</sup>The law firm Manning Curtis Bradshaw & Bednar was approved as conflicts counsel. All matters that were being handled by conflicts counsel have been resolved and no billable time was reported by Manning Curtis.

V. CONCLUSION

19. The Receiver respectfully submits this Fee Application and requests that the Court enter an Order approving the actual and necessary fees and expenses incurred on behalf of and for the benefit of the Receivership Estate. For all the reasons stated, the Receiver submits that he and his Retained Professionals have provided a significant benefit to the Receivership Estate. There are sufficient funds in the Operating Account to pay the fees and expenses requested herein.

20. A proposed Order is attached hereto as Exhibit D.

The Receiver, Klein and Associates, Parr Brown, and Lone Peak verify under penalty of perjury that the foregoing is true and correct.

DATED this 5<sup>th</sup> day of May, 2023.

RECEIVER

/s/ Wayne Klein

WAYNE KLEIN, Receiver

PARR BROWN GEE & LOVELESS, P.C.

/s/ Jeffery A. Balls

Jonathan O. Hafen

Jeffery Balls

*Attorneys for R. Wayne Klein, Receiver*

LONE PEAK VALUATION GROUP

/s/ Jeffrey Pickett

Jeffrey Pickett

CERTIFICATE OF SERVICE

I hereby certify that the above EIGHTEENTH INTERIM FEE APPLICATION FOR RECEIVER AND RECEIVER'S PROFESSIONALS FOR SERVICES RENDERED FROM JANUARY 1, 2023 THROUGH MARCH 31, 2023 was filed with the Court on this 8th day of May, 2023 and served via ECF on all parties who have requested notice in this case.

Notice was also mailed by U.S. Mail to the following Receivership Defendants:

Neldon Johnson  
Post Office Box 95332  
South Jordan, Utah 84095

R. Gregory Shepard  
4933 South Murray Boulevard, Apartment U28  
South Jordan, Utah 84123

/s/ Wendy V. Tuckett