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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 TENTH SPECIAL
REPORT ON STATUS OF
SETTLEMENTS AND LITIGATION

As of May 15, 2023

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

District Judge David Nuffer

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 Tenth Special Report on Status of Settlements and Litigation ("Report"), from February 16, 2023 to May 15, 2023.

I. OVERVIEW

The Receivership Estate was created on October 31, 2018 with entry of the Court's *Receivership Order* ("Order").¹ Thirteen affiliated entities were added on May 3, 2019.² Also in

¹[Docket No. 490](#). A *Corrected Receivership Order* ("CRO") was entered the following day. [Docket No. 491](#), filed November 1, 2018.

²[Docket No. 636](#), filed May 3, 2019.

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

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

1. The Court granted the Receiver partial summary judgment against LaGrand and Randale Johnson, the Receiver dismissed some claims against the Johnson brothers, and the Court set a joint trial date in September 2023;
2. An additional settlement agreement was paid in full.

II. SETTLEMENTS

A. Approved Settlements. The Receiver has filed 17 motions for approval of settlement agreements, all of which have been approved. The statuses of these settlements are:

Settlement Agreements Paid in Full as of May 15, 2023	
74 settlement agreements have been paid in full and dismissed or judgments entered.	

Settlement Agreements Paid in Full Since February 16, 2023			
Name	Case No.	Case Status	Payment Status
Day, Thomas	2:19-cv-00692-DN-PK	Dismissed	Paid in full

Settlement Agreements With Installment Payments Being Made				
Name	Case No.	Case Status	Prior	Current
Aulds, Robert	2:19-cv-00192-DN-PK	Dismissed	71%	75%
Black, Scott	2:19-cv-00678-DN-PK	Dismissed	75%	85%
Heideman & Assoc.	2:19-cv-00854-DN-PK	Dismissed	33%	50%
Kinsey, Ed	2:19-cv-00729-DN-PK	Dismissed	33%	36%
Newman, Ina	2:18-cv-00623-DN-PK	Dismissed	62%	68%
Shepard, Mark	2:19-cv-00803-DN-PK	Dismissed	85%	96%
Taylor, Christopher	2:19-cv-00816-DN-PK	Judgment	34%	35%
Woodson, James	2:19-cv-00794-DN-PK	Judgment	66%	78%

³Docket No. 673, filed May 24, 2019.

B. Delinquent Settlements. The four persons listed below are delinquent in their settlement agreement obligations.

Name	Case No.	Amt. Owed	Amt. Paid	Comments
Abdullah, Fareed	None	\$5,991.50	\$991.50	Settlement before lawsuit.
Bowers, Steven	2:19-cv-00530	\$19,800.00	\$0.00	Dismissed, may refile.
Jameson, Richard	2:19-cv-00822	\$16,000.00	\$0.00	Deceased; executor appointed.
Searcy, Richard	2:19-cv-00776	\$56,000.00	\$6,000.00	Delinquent: 11% paid.

III. DEFAULT JUDGMENTS TO COLLECT

The Court has granted default judgments in the cases listed in the table below.

Name	Case No.	Judgment Date	Judgment Amount	Pre-Judgment Interest
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 ⁴	2:19-cv-00792	10/5/21	\$303,950.00	\$55,960.11
Frandsen, Jay D. ⁵	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

IV. COURT JUDGMENTS TO COLLECT

The Court has entered the following recent judgments, which the Receiver will undertake to collect or assign to the United States:

Name	Case No.	Judgment Date	Judgment Amount	Type of Judgment
Snow, Curtis	2:19-cv-00757	2/13/23	\$87,079.71	Jury verdict
Johnson, Randale	2:19-cv-00532	3/16/23	\$200,000.00	Partial S. J.
Johnson, LaGrand	2:19-cv-00534	3/16/23	\$200,000.00	Partial S. J.

⁴Clement was a co-defendant in a case with Edward Kinsey, Suncore, and Edde Enterprises. The other defendants entered into a settlement agreement that was approved by the Court (which is listed above).

⁵The litigation against a co-defendant, Larry T. Hutchings, has been dismissed.

V. ASSIGNMENTS OF JUDGMENTS, SETTLEMENTS

The Receiver is discussing plans with the United States to assign delinquent settlement agreements, default judgments, and the Snow judgment to the United States.

VI. APPEALS

As of May 15, 2023, 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. The appeals were argued May 19, 2022, with supplemental briefing submitted in August and September 2022.

Appeals by Commission Recipients				
Name	Case No.	Appeal No.	Date of Appeal	Status
Armand, Jean	2:19-cv-00779	21-4071	5/27/21	Oral argument 5/19/22 ⁶
Finkes, Reinhold	2:19-cv-00761	21-4090	7/22/21	Oral argument 5/19/22 ⁷
Hadderton, Carey	2:19-cv-00704	21-4077	6/10/21	Oral argument 5/19/22
Hamblin, Roger ⁸	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 ⁹

All appeals by Neldon Johnson and other insiders have been affirmed or dismissed.

VII. RESOLVED AND DISMISSED LITIGATION

The Receiver will file notice of satisfaction of judgment for Tom Day, who paid his settlement amount in full.

⁶The Receiver has collected \$1,061.93 on this judgment via garnishment proceedings.

⁷The Receiver has collected \$201.30 on this judgment via garnishment proceedings.

⁸A filing with the Tenth Circuit indicates that Mr. Hamblin died in January 2022.

⁹Trudy Shepherd deposited the amount of the judgment with the Receiver, to avoid garnishment proceedings, but is continuing her appeal.

VIII. ONGOING LITIGATION

Five lawsuits filed by the Receiver are still pending. One other lawsuit, against Richard Jameson has a disputed status. The statuses of these six cases are described below

Name	Case No.	Type of Case	Status/Next Deadline
Johnson, Randale	2:19-cv-00532	Insider	The Court granted the receiver partial summary judgment on 3/16/23. The Receiver dismissed his claims for amounts where actual fraud was in dispute, leaving claims for \$464,467.80. The case is set for trial on September 18, 2023, jointly with LaGrand Johnson.
Johnson, LaGrand	2:19-cv-00534	Insider	The Court granted the receiver partial summary judgment on 3/16/23. The Receiver dismissed his claims for amounts where actual fraud was in dispute, leaving claims for \$424,176.05. The case is set for trial on September 18, 2023, jointly with Randale Johnson.
Plaskolite, LLC	2:19-cv-00832	Supplier	Briefing on cross motions for summary judgment was completed May 23, 2022. Trial setting vacated pending summary judgment ruling.
Nelson Snuffer	2:19-cv-00851	Legal services	Expert deadline is now 11/8/23. Trial set for 7/8/24.
Johnson, Glenda	2:19-cv-00625	Insider	Expert deadline is 1/29/24. Trial set for 8/5/24.
Jameson, Richard	2:19-cv-00822	Tax preparer	Settlement agreement with Jameson on 11/30/21. Jameson's claims court case was dismissed on 9/21/22, following Jameson's death. The Utah Fifth District Court has appointed Jameson's wife as Jameson's personal representative. The Receiver and Jameson's counsel are disputing whether the key condition in Jameson's settlement agreement has been fulfilled.

IX. CONCLUSION

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

/s/ Wayne Klein

Wayne Klein
Receiver

DATED this 12th day of June 2023.

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 TENTH SPECIAL REPORT ON STATUS OF LITIGATION was electronically filed with the Clerk of the Court through the CM/ECF system on June 12, 2023, which sent notice of the electronic filing to all counsel of record and sent by mail to the following.

Neldon P. Johnson
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South Jordan, Utah 84095

R. Gregory Shepard
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Salt Lake City, Utah 84123-2641

/s/ Wendy V. Tuckett