
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.

**ORDER GRANTING RECEIVER’S
MOTION TO ASSIGN ADDITIONAL
JUDGMENT TO PLAINTIFF, UNITED
STATES (DOC. NO. 1251)**

Case No. 2:15-cv-00828

District Judge David Nuffer

Magistrate Judge Daphne A. Oberg

R. Wayne Klein, the court-appointed receiver, filed a Motion to Assign Additional Judgment to Plaintiff, United States.¹ On May 31, 2022, the court granted the receiver’s previous motion to assign eight judgments² to the United States, subject to certain conditions.³ The receiver seeks to assign nine additional judgments he has obtained and two settlement agreements to the United States for collection.⁴ No oppositions to the motion were filed and the United States supports the motion.⁵ Where assignment is in the best interest of the receivership

¹ (“Mot.,” Doc. No. 1251.)

² These judgments are in the following cases in the District of Utah: *Klein v. Brennan*, 2:19-cv-00687; *Klein v. Kerr et al.*, 2:19-cv-00768; *Klein v. King*, 2:19-cv-00706; *Klein v. Payne et al.*, 2:19-cv-00791; *Klein v. Scraggs*, 2:19-cv-00727; *Klein v. Stewart*, 2:19-cv-00726; *Klein v. Turner*, 2:19-cv-00767; *Klein v. Shepard*, 2:19-cv-00533.

³ (See Order Granting Receiver’s Mot. to Assign Certain Js. to Pl., U.S., Doc. No. 1214; Order Granting Receiver’s Mot. to Assign Additional J. to Pl., Doc. No. 1238.)

⁴ (Mot. 3, Doc. No. 1251.)

⁵⁵ (*Id.* at 4.)

estate, the motion is granted.

Through the Receivership Order,⁶ subsequently amended by the Corrected Receivership Order (“CRO”),⁷ the court created the receivership estate and the receiver took control of the receivership defendants’ assets.⁸ The CRO gives the receiver “custody, control, and possession of all Receivership Property,” and empowers him “to sue for and collect, recover, receive, and take into possession from third parties all Receivership Property.”⁹ Similarly, the receiver is “authorized, empowered, and directed to . . . prosecute” actions “advisable or proper to recover or conserve Receivership Property,” after consultation with counsel for the United States.¹⁰ The CRO also permits the receiver to “transfer, compromise, sell, or otherwise dispose of any Receivership Property, other than real estate, in the ordinary course of business.”¹¹ However, these actions must be “on terms and in the manner the [r]eceiver deems most beneficial to the receivership estate and with due regard for the realization of the true and proper value of such Receivership Property.”¹² Lastly, the receiver may take other action “approved by this [c]ourt.”¹³

⁶ (Doc. No. 490.)

⁷ (Doc. No. 491.)

⁸ (Mot. 2, Doc. No. 1251.)

⁹ (CRO ¶ 13(b), Doc. No. 491.)

¹⁰ (*Id.* ¶ 59.)

¹¹ (*Id.* ¶ 54.)

¹² (*Id.*)

¹³ (*Id.* ¶ 13(r).)

The court granted the receiver leave to commence litigation against various groups, including persons “who received monies or assets” from receivership entities.¹⁴ The receiver subsequently initiated lawsuits and obtained multiple judgments, including the nine judgments at issue in this motion.¹⁵ The receiver also reached settlement agreements with defendants and persons he threatened to sue, including the two settlement agreements at issue in this motion.¹⁶ Both the receiver and the United States believe the United States can most “effectively, efficiently, and cost-efficiently” collect on these additional judgments and settlement agreements.¹⁷ The receiver believes having the United States collect these judgments and settlement agreements will yield the greatest return because the collection methods available to the receiver are costly and less effective.¹⁸ Specifically, hiring outside counsel on an hourly basis is expensive, collection agencies charge high commissions (upward of forty to fifty percent), and selling judgments often results in extremely low bid prices.¹⁹ In contrast, the United States has more powerful collection tools at its disposal, which it can undertake through salaried employees.²⁰

Where assigning the judgment to the United States will benefit the receivership estate, the

¹⁴ (Doc. No. 673.)

¹⁵ (Mot. 2–3, Doc. No. 1251.)

¹⁶ (*Id.*)

¹⁷ (*Id.* at 2.)

¹⁸ (Mot. 4–5, Doc. No. 1251 (renewing these arguments as provided in its prior motion to assign judgments); *see also* Receiver’s Mot. to Assign Certain Js. to Pl., U.S. 4, Doc. No. 1200.)

¹⁹ (*See* Receiver’s Mot. to Assign Certain Js. to Pl., U.S. 4, Doc. No. 1200.)

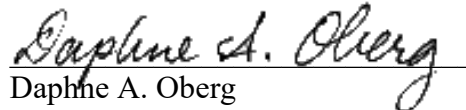
²⁰ (*See id.* at 5.)

receiver's motion²¹ is GRANTED. The court orders as follows:

- The nine judgments and two settlement agreements identified by the receiver²² shall be assigned to the United States.
- The United States shall send a status report to the receiver updating him on the amount collected from the assigned judgments and assigned settlement agreements every six months, commencing six months from the date of this order.
- The receiver shall file a status report with the court informing the court as to the amount the United States has collected on the assigned judgments and settlement agreements. The status report shall be filed annually, commencing one year from the date of the order, and at such time as the United States has recovered \$14.2 million per the CRO's second distribution priority.

DATED this 28th day of June, 2023.

BY THE COURT:


Daphne A. Oberg
United States Magistrate Judge

²¹ (Doc. No. 1251.)

²² The judgments and settlement agreements subject to this order are detailed in the receiver's motion. (*Id.* at 3.)