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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 NINETEENTH
QUARTERLY STATUS REPORT

For the period April 1, 2023 to June 30, 2023

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 Nineteenth Quarterly Status Report ("Report") for the period from April 1, 2023 to June 30, 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"),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

As many of the Receivership's objectives have been accomplished, future efforts are focused on completing pending litigation, collecting judgments awarded, and awaiting disposition of remaining real property.

II. ASSET RECOVERY, SETTLEMENTS

A. Settlements. There were no new settlements during the Reporting Period. During the quarter, the Receiver received \$46,266.90 in settlement payments.

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

III. JUDGMENTS ASSIGNED TO THE UNITED STATES

On June 12, 2023, the Receiver moved for approval to assign nine additional judgments and two delinquent settlement agreements to the United States.⁴ Eight of the judgments were default judgments and the ninth was the jury verdict against Curtis Snow. The settlement agreements were with Steven Bowers who paid none of the \$19,800.00 he agreed to pay and with Richard Searcy who paid only \$6,000.00 of the \$56,000.00 he agreed to pay. The Court granted the motion on June 28, 2023.⁵

Notices of assignment were filed in each of the cases where judgments were entered. Information about the debtors will be sent to the United States to aid in its collection efforts.

²Memorandum 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.

⁴Docket no. 1251, filed June 12, 2023.

⁵Docket no. 1252, filed June 28, 2023.

IV. REAL PROPERTY SALES

The Receivership Estate now holds only the three contiguous properties that are subject to a purchase option expiring in 2025. Option fees are current.

V. LITIGATION

A. Special Report on Status of Litigation. The Receiver filed a tenth special report on the status of litigation, summarizing the status of settlement payments, summary judgment motions, default judgments, and ongoing litigation.⁶ The Receiver expects to file similar reports through the end of 2023, at which point most litigation will have been completed and most of the settlement payments will have been completed.

B. Active Recovery Litigation. As of the end of the Reporting Period, five lawsuits filed by the Receiver were still pending.⁷ After the Court granted the Receiver partial summary judgment against LaGrand Johnson and Randale Johnson, the Receiver dismissed several claims against the Johnson brothers. Their joint trial, which begins September 18, 2023, will be on transactions the Court has already ruled were actually fraudulent.

In the Receiver's case against Plaskolite, cross summary judgment motions are pending. Trials are set in 2024 against Glenda Johnson and Nelson Snuffer Dahle & Poulsen.

C. Collection Litigation: Jameson.

1. Background. Pursuant to a settlement with Richard Jameson, the Receiver's lawsuit against Jameson was put on hold pending the results of his litigation in the U.S.

⁶Docket no. 1250, filed June 12, 2023.

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

Court of Claims. On May 30, 2022, Jameson died and on September 21, 2022, the Court of Claims dismissed Jameson's case without prejudice.

2. Appointment of Personal Representative. On April 5, 2023, the Utah Fifth District Court granted the Receiver's motion and appointed Cheri Jameson (Jameson's wife) as personal representative for the estate of Richard Jameson. On April 6, 2023, responding to other filings, this Court ruled that Jameson's estate had not filed and served proper notice of Jameson's death, leaving the Receiver's lawsuit against Jameson still open.⁸ The Receiver intends to move to substitute Jameson's estate as defendant in the Receiver's suit against Jameson.

3. Motion to Determine "Condition Fulfillment." The Receiver filed a motion asking the Court to determine that the condition precedent of Jameson's settlement agreement had been satisfied, thereby obligating Jameson to pay the \$16,000.00 settlement amount. Counsel for Jameson opposed the motion, arguing that the Court of Claims action can be refiled until September 22, 2023.⁹ The Receiver filed a reply.¹⁰ The motion is awaiting a ruling.

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

⁸*Klein v. Jameson*, Case No. 2:19-cv822, docket no. 34, filed April 6, 2023.

⁹*Id.*, docket no. 37, filed April 28, 2023. The opposition identifies Justin Heideman as counsel for Jameson; the filing does not indicate if Mr. Heideman represents Jameson's estate or the newly appointed personal representative of the estate.

¹⁰Docket no. 38, filed May 12, 2023.

E. Criminal Contempt Case. The June 5, 2023 trial on the criminal contempt charges against Neldon Johnson and Glenda Johnson was vacated, based on Neldon Johnson's poor health.¹¹

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 by 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, 2023.¹²

2. State Court Injunctive Action. Johnson filed a lawsuit in Utah's Fourth District Court on October 16, 2018, naming the Internal Revenue Service, the U.S. Department of Justice, and Judge Nuffer as defendants. The United States removed the action to federal court on October 31, 2018 and filed a motion to dismiss the lawsuit.¹³ Before the dismissal motion was heard, the removed case was stayed. Circuit Judge Tymkovich, who presides over that case, lifted the stay order for the limited purpose of ruling on the United States' motion to dismiss.¹⁴ The dismissal motion is pending before magistrate Cecilia Romero.

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, 2018.¹⁵ The United States filed a motion to dismiss that lawsuit, but the

¹¹2:21-cr-513. A scheduling conference will be held on July 17, 2023.

¹²Case no. 4:18-cv-0087-DN-PK, docket no. 32, filed April 4, 2023.

¹³Case no. 4:18-cv-0073.

¹⁴*Id.*, docket no. 30.

¹⁵Case no. 4:18-cv-062.

case was stayed before the dismissal motion was decided. This case also has been assigned to Circuit Judge Tymkovich. As noted in the prior status report, the Receiver, joined by the United States, filed a report recommending that Johnson not be allowed to pursue any claims for monetary damages, expressing a belief that these claims lack merit, and suggesting Johnson's claims have been mooted by subsequent court rulings and the multiple appeals filed by Johnson. There have been no rulings in that case since the Receiver filed his report.

VI. FINANCIAL OPERATIONS OF THE RECEIVERSHIP ESTATE

A. Receipts and Disbursements. The table below summarizes the revenue and expenditures of the Receivership Estate during the quarter:

| Category | Revenue | Expenditures |
|----------------------------------|-------------|--------------|
| Settlement payments | \$46,266.90 | |
| Interest earnings | \$8,434.76 | |
| Tax preparation, filing fee | | \$2,957.98 |
| Storage unit, operating expenses | | \$377.24 |
| Total | \$54,701.66 | \$3,335.22 |

The fee application for work performed during the first quarter of 2023 was approved.¹⁶ Payments totaling \$128,480.25 were paid to the Receiver, his counsel, and forensic accountants.

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 June 30, 2023:

| Account Balances | |
|----------------------|--------------|
| Account | Amount |
| Checking account | \$14,496.57 |
| Bank savings account | \$20,622.65 |
| Money market fund | \$636,181.02 |
| Total | \$671,300.24 |

¹⁶Docket no. 1249, filed May 23, 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 determining the enforceability of the Jameson settlement agreement.

B. Assignment of Judgments. The Receiver will file notices of assignment in the cases where judgments were assigned to the United States and will provide information to the United States to assist in its collection of the assigned judgments and the settlement agreements.

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

While many of the objectives of the Receivership have been accomplished, the remaining tasks will require significant effort, or, in the case of the appeals and property sales, require waiting.

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

/s/ Wayne Klein

Wayne Klein
Receiver

DATED this 12th day of July, 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 NINETEENTH QUARTERLY STATUS REPORT was electronically filed with the Clerk of the Court through the CM/ECF system on July 12, 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