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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 ELEVENTH SPECIAL
REPORT ON STATUS OF SETTLEMENTS
AND LITIGATION

As of August 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 Eleventh Special Report on Status of Settlements and Litigation ("Report"), from May 16, 2023 to August 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

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.

in 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 Tenth Circuit issued an opinion affirming the Court's summary judgment ruling against Trudy Shepherd on July 14, 2023.
2. The Tenth Circuit affirmed the Court's summary judgment orders against Janet Roe, Jean Armand, Roger Hamblin, John Howell, Carey Hadderton, and Reinhold Fines on August 7, 2023.
3. Nine judgments and two delinquent settlement agreements were assigned to the United States, pursuant to a June 28, 2023 order.⁴
4. Trial preparations are being finalized for the September 15, 2023 trial against LaGrand Johnson.

II. APPEALS

On July 14, 2023, the Tenth Circuit affirmed the \$92,375.12 judgment entered by the Court against Trudy Shepherd. Shepherd had previously conditionally paid the judgment amount to the Receiver. In exchange, the Receiver waived payment of pre- and post-judgment interest. No further amounts are owed on this judgment.

On August 7, 2023, the Tenth Circuit affirmed judgments the Court entered against six persons and some related entities for commissions they received for selling solar lenses. The

³Docket No. 673, filed May 24, 2019.

⁴Docket No. 1252, filed June 28, 2023.

judgment amounts and amounts recovered to date by the Receiver in garnishment proceedings are:

Name	Case No.	Judgment Amount	Pre-Judgment Interest	Amounts Recovered in Garnishments
Armand, Jean	2:19-cv-00779	\$13,760.15	\$2,107.36	\$1,061.93
Finkes, Reinhold	2:19-cv-00761	\$61,905.40	\$8,556.51	\$201.30
Hadderton, Carey	2:19-cv-00704	\$87,522.67	\$12,061.34	\$0.00
Hamblin, Roger ⁵	2:19-cv-00783	\$481,100.64	\$85,318.56	\$0.00
Howell, John	2:19-cv-00705	\$307,832.87	\$39,542.42	\$52,933.67
Roe, Janet	2:19-cv-00719	\$47,313.34	\$6,520.17	\$0.00

All appeals have now been affirmed or dismissed.

III. 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 August 15, 2023
74 settlement agreements have been paid in full and dismissed or judgments entered.

Settlement Agreements Paid in Full Since May 15, 2023			
Name	Case No.	Case Status	Payment Status
None			

Settlement Agreements With Installment Payments Being Made				
Name	Case No.	Case Status	Prior	Current
Aulds, Robert	2:19-cv-00192-DN-PK	Dismissed	75%	83%
Black, Scott	2:19-cv-00678-DN-PK	Dismissed	85%	88%
Heideman & Assoc.	2:19-cv-00854-DN-PK	Dismissed	50%	50%
Kinsey, Ed	2:19-cv-00729-DN-PK	Dismissed	36%	42%
Newman, Ina	2:18-cv-00623-DN-PK	Dismissed	68%	75%
Shepard, Mark	2:19-cv-00803-DN-PK	Dismissed	96%	99%

⁵Mr. Hamblin died in January 2022.

Taylor, Christopher	2:19-cv-00816-DN-PK	Dismissed	35%	35%
Woodson, James	2:19-cv-00794-DN-PK	Judgment	78%	85%

B. Delinquent Settlements. Three of the settlement parties listed above (Black, Taylor, and Woodson), are behind in making their scheduled settlement payments. They all have promised to catch up. The two people listed below have defaulted in their settlement obligations.

Name	Case No.	Amt. Owed	Amt. Paid	Comments
Abdullah, Fareed	None	\$5,991.50	\$991.50	Abandoned by Receiver
Jameson, Richard	2:19-cv-00822	\$16,000.00	\$0.00	Awaiting determination of condition fulfillment

IV. DEFAULT JUDGMENTS TO COLLECT

All default judgments have been assigned to the United States. The assignments are discussed below.

V. COURT JUDGMENTS TO COLLECT

The Court has entered partial judgments against Randale and LaGrand Johnson.⁶ The Receiver expects to wait until the conclusion of trial in September to begin collection efforts against LaGrand Johnson, at which time the judgment amount against him might be increased significantly.

Name	Case No.	Judgment Date	Judgment Amount	Type of Judgment
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.

⁶Randale Johnson filed a chapter 7 bankruptcy petition on August 16, 2023. This precludes the Receiver from including Randale Johnson in the September 15 trial involving LaGrand Johnson and will affect the Receiver's ability to collect the judgment against Randale Johnson if Randale Johnson receives a discharge.

VI. ASSIGNMENTS OF JUDGMENTS, SETTLEMENTS

On June 28, 2023, the Court approved the Receiver's motion to assign delinquent settlement agreements, default judgments, and the Snow judgment to the United States. The judgments assigned are listed in the table below. The Receiver provided background information on these judgments and the defendants to the United States.

Name	Case No.	Type of Judgment	Judgment Amount	Pre-Judgment Interest
Battle, Hinton	2:20-cv-00010	Default	\$18,657.30	\$2,461.23
Bean, Joel	2:19-cv-00702	Default	\$16,018.10	\$1,533.79
Bowers, Steven	2:19-cv-00530	Settlement	\$19,800.00	
Clement, Jason	2:19-cv-00792	Default	\$303,950.00	\$55,960.11
Frandsen, Jay D.	2:19-cv-00660	Default	\$52,000.00	\$20,044.93
Hampton, Michael	2:19-cv-00778	Default	\$9,499.75	\$1,391.13
K. Hawes Associates	2:19-cv-00840	Default	\$25,512.00	\$2,897.19
Searcy, Richard	2:19-cv-00776	Settlement	\$50,000.00	
Smith, Debbie	2:19-cv-00728	Default	\$18,469.80	\$1,664.81
Snow, Curtis	2:19-cv-00757	Verdict	\$87,079.71	
Stilson, Dennis	2:19-cv-00689	Default	\$32,471.25	\$3,327.19

In light of the appeals court rulings, the partial judgments against Randale and LaGrand Johnson, and the upcoming trial, the Receiver expects to propose assigning to the United States the six commission judgments affirmed in the appeal, judgments against Randale and LaGrand Johnson, and a few settlement agreements where payments are delinquent.

VII. RESOLVED AND DISMISSED LITIGATION

The Receiver will file notice of satisfaction of judgment for Trudy Shepherd, who has paid her settlement amount in full.

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, Randle	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. Randle filed for bankruptcy on 8/16/23. This matter is therefore stayed pursuant to the automatic stay.
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 15, 2023, jointly with Randle 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 11/8/23. Trial set for 7/8/24. Mediation will be held 8/21/23.
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 Eleventh Special Report on Status of Litigation is accurate to the best of his knowledge.

/s/ Wayne Klein

Wayne Klein

Receiver

DATED this 1st day of September, 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 ELEVENTH SPECIAL REPORT ON STATUS OF LITIGATION was electronically filed with the Clerk of the Court through the CM/ECF system on September 1, 2023, which sent notice of the electronic filing to all counsel of record and sent by mail to the following.

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/s/ Wendy V. Tuckett