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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.

ORDER GRANTING RECEIVER'S
FOURTH MOTION TO ASSIGN
JUDGMENTS TO PLAINTIFF,
UNITED STATES
(DOC. NO. 12__)

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

District Judge David Nuffer
Magistrate Judge Daphne A. Oberg

R. Wayne Klein, the court-appointed Receiver, filed his Fourth Motion to Assign Additional Judgments to Plaintiff, United States.¹ On May 31, 2022, December 5, 2022, and June 28, 2023 the court granted three previous motions by the Receiver to assign judgments to the United States, subject to certain conditions.² The Receiver seeks to assign five additional judgments he has obtained to the United States for collection. No oppositions to the motion were

¹("Mot.," Doc. No. 12__.)

²(See Order Granting Receiver's Motion to Assign Certain Judgments to Plaintiff, United States, Doc. No. 1214; Order Granting Receiver's Motion to Assign Additional Judgments to Plaintiff, United States, Doc. No. 1238; Order Granting Receiver's Motion to Assign Additional Judgments to Plaintiff, United States., Doc. No. 1252.)

filed and the United States supports the motion.³ Where assignment is in the best interest of the receivership estate, the motion is granted.

Through the Receivership Order,⁴ subsequently amended by the Corrected Receivership Order ("CRO"),⁵ the court created the receivership estate and the Receiver took control of the receivership defendants' assets.⁶ 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."⁷ 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.⁸ 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."⁹ However, these actions must be "on terms and in the manner the Receiver deems most beneficial to the receivership estate and with due regard for the realization of the true and proper value of such Receivership Property."¹⁰ Lastly, the Receiver may take other action "approved by this Court."¹¹

The court granted the Receiver leave to commence litigation against various groups, including persons "who received monies or assets" from receivership entities.¹² The Receiver subsequently initiated lawsuits and obtained multiple judgments, including the five judgments at

³(Mot. 2, Doc. No. 12__.)

⁴(Doc. No. 490.)

⁵(Doc. No. 491.)

⁶(Mot. 2, Doc. No. 12__.)

⁷(CRO ¶ 13(b), Doc. No. 491.)

⁸(*Id.* ¶ 59.)

⁹(*Id.* ¶ 54.)

¹⁰(*Id.*)

¹¹(*Id.* ¶ 13(r).)

¹²(Doc. No. 673.)

issue in this motion, which judgments were affirmed on appeal. Both the Receiver and the United States believe the United States can most "effectively, efficiently, and cost-effectively" collect on these additional judgments and settlement agreements.¹³ The Receiver believes having the United States collect the additional judgments and settlement agreements will yield the greatest return because the collection methods available to the Receiver are costly and less effective.¹⁴ 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.¹⁵ In contrast, the United States has more powerful collection tools at its disposal, which it can undertake through salaried employees.¹⁶

Where assigning the judgments and settlement agreements to the United States will benefit the receivership estate, the Receiver's motion¹⁷ is GRANTED. The court orders as follows:

- The five judgments identified by the Receiver shall be assigned to the United States.
- 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 and at such time as the United States has recovered \$14.2 million per the CRO's second distribution priority.

DATED this _____ day of _____, 2023.

BY THE COURT:

Daphne A. Oberg
United States Magistrate Judge

¹³(*Id.*)

¹⁴(Mot. 5, Doc. No. 12__ (renewing these arguments as provided in its first motion to assign judgments); *see also* Receiver's Motion to Assign Certain Judgments to Plaintiff, United States 4, Doc. No. 1200.)

¹⁵(*See* Receiver's Motion to Assign Certain Judgments to Plaintiff, United States 4, Doc. No. 1200.)

¹⁶(*See id.* at 5.)

¹⁷(Doc. No. 12__.)