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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

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UNITED STATES OF AMERICA,

Plaintiff,

v.

RAPOWER-3, LLC; INTERNATIONAL  
AUTOMATED SYSTEMS, INC.; LTB1,  
LLC; R. GREGORY SHEPARD; and  
NELDON JOHNSON,

Defendants.

**ORDER LIFTING LITIGATION  
STAY TO ALLOW SETTLEMENT  
OF TAX COURT LITIGATION**

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

District Judge David Nuffer

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R. Wayne Klein, the court-appointed receiver, (“Receiver”) filed a motion (“Motion”)<sup>1</sup> seeking to lift the stay of litigation (the “Litigation Stay”) set forth in paragraphs 44 through 48 of the Corrected Receivership Order<sup>2</sup> to allow a settlement of litigation pending in the United States Tax Court relating to R. Gregory Shepard and Diana C. Shepard. No response was filed in opposition to the Motion, and the time to file a response has now expired. Based on the Motion, and for good cause appearing,

IT IS HEREBY ORDERED that:

1. The Motion is GRANTED.
2. The Litigation Stay is lifted to allow the IRS and the Shepards (collectively, “Tax Court Parties”) to execute documents resolving United States Tax Court, Case No. 002826-18

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<sup>1</sup> Motion to Lift Litigation Stay to Allow Settlement of Shepard Tax Court Litigation, [docket no. 604](#), filed April 5, 2019.

<sup>2</sup> [Docket no. 491](#), filed November 1, 2018.

(“Shepard Tax Court Case”) and to allow the Tax Court to enter any orders necessary to resolve matters pending before the Tax Court.

3. This Order lifting the Litigation Stay is subject to the following conditions and limitations:

a. The IRS assessments of taxes, penalties, interest, or any other form of relief against R. Gregory Shepard will be treated as a fifth priority claim against receivership estate assets. The IRS will take no steps to execute on, place liens upon, seize, or otherwise attempt to collect or recover any assets that the Receiver asserts are part of the receivership estate. To protect its interest, the IRS may take collection actions on assets of Diana C. Shepard, including filing a notice of federal tax lien.

b. Any interest that the IRS asserts against the Shepards’ residence,<sup>3</sup> which is titled in the name of the Diana C. Shepard Revocable Trust, shall be subordinated to the claims of the Receiver. So long as the Receiver notifies the IRS that the Receiver is asserting that the Shepards’ residence is a receivership estate asset, the IRS shall not seek to enforce any claims against the Shepards’ residence. If the Shepards’ residence is found not to be a receivership estate asset, the IRS may enforce its interests in the residence. The Receiver is authorized to cooperate and coordinate with the IRS to assert control over the Shepards’ residence.

c. The Tax Court Parties will provide the Receiver with a copy of any executed settlement agreement or other documents resolving the Shepard Tax Court Case for the Receiver’s review before the documents are submitted to the Tax Court for action.

d. The Litigation Stay is lifted for the sole purpose of allowing the Tax Court Parties to settle the Shepard Tax Court Case. If a settlement agreement is not submitted and the

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<sup>3</sup> The Shepards’ residence is located at 858 W. Clover Meadow Dr., Salt Lake City, UT 84123.

Shepard Tax Court Case is not dismissed within sixty days of this Order lifting the Litigation Stay, the Shepard Tax Court Case will automatically be stayed in accordance with paragraphs 44 through 48 of the Corrected Receivership Order.

Signed April 25, 2019.

BY THE COURT:

A handwritten signature in blue ink that reads "David Nuffer". The signature is written in a cursive style with a horizontal line underneath it.

David Nuffer  
United States District Judge