
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

UNITED STATES OF AMERICA,

Plaintiff,

v.

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

Defendants.

**ORDER REQUIRING TURNOVER TO
RECEIVER OF ALL VEHICLES
TITLED IN THE NAME OF
RECEIVERSHIP DEFENDANTS OR
GLENDA JOHNSON**

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

District Judge David Nuffer

At a hearing on February 25, 2020, the Court made findings of contempt regarding actions of Neldon Johnson, Glenda Johnson, and others. Those findings and other remedial orders will be included in a subsequent order to be issued by the Court. Among the findings made on February 25, 2020 was a determination that all vehicles identified by the Receiver in Exhibit 2162 are Receivership Property and belong to the Receivership Estate.¹ This Order requires the delivery of those vehicles to the Receiver.

The Court has reviewed the submissions of the parties in advance of the February 25, 2020 hearing² and considered arguments made to the Court at the hearing. The Court has also

¹At a January 23, 2020 deposition Glenda Johnson testified that each of the vehicles titled in her name listed in Exhibit 2162, with one possible exception, were purchased with Receivership funds. *See* Reporter's Transcript of Proceedings, Examination Under Oath (Jan. 23, 2020), Vol. II at 166-68, [ECF Doc. No. 856](#), filed Feb. 11, 2020; *United States Statement of Issues for February 25, 2020 Contempt Hearing*, [ECF Doc. No. 862](#) at 9, filed Feb. 24, 2020. To the extent Glenda Johnson asserts ownership as to the vehicle she claims is a possible exception, she is instructed to follow the procedure outlined in paragraph 11 of this Order, below.

²*United States' Statement of Issues for February 25, 2020 Contempt Hearing*, [ECF Doc. No. 862](#), filed Feb. 24,

considered the Receiver's proposed order and objections thereto filed by Neldon Johnson and Glenda Johnson.³ Based thereon and for good cause appearing,

IT IS HEREBY ORDERED that:

1. The vehicles (including personal vehicles, trailers, recreational vehicles, heavy trucks, cranes, and equipment) identified in Exhibit 1 to this Order are Receivership Property.⁴
2. By April 3, 2020, Neldon Johnson and Glenda Johnson must each file an affidavit or declaration stating, as to each vehicle listed in Exhibit 1, (A) the current location of the vehicle, (B) whether the vehicle is drivable or easily towable (such as trailers), and (C) as to any vehicle that is not drivable or easily towable, the reason it is not drivable or easily towable. By April 3, 2020, the Receiver must notify counsel for Neldon Johnson and Glenda Johnson of the location for delivery of the drivable or easily towable vehicles.

2020; *Neldon Johnson's Position as to United States' Statement of Issues for January [sic] 25, 2020 Contempt Hearing*, [ECF Doc. No. 860](#), filed Feb. 24, 2020; *Respondents Glenda Johnson, LaGrand Johnson and Randale Johnson's Response to the Government's Statement of Issues for February 25, 202 Contempt Hearing*, [ECF Doc. No. 861](#), filed Feb. 24, 2020.

³ Notice of Filing Order Requiring Turnover to Receiver of All Vehicles Titled in the Name of Receivership Defendants or Glenda Johnson, [ECF Doc. No. 877](#), filed March 10, 2020; [Proposed] Order Requiring Turnover to Receiver of All Vehicles Titled in the Name of Receivership Defendants or Glenda Johnson, [ECF Doc. No. 877-1](#), filed March 10, 2020; Neldon Johnson's Objection to Proposed Order Requiring Turnover to Receiver of All Vehicles Titled in the Name of Receivership Defendants or Glenda Johnson, [ECF Doc. No. 880](#), filed March 13, 2020; Glenda Johnson's Objections To Order Requiring Turnover to Receiver of All Vehicles in the Name of Glenda Johnson ("Objections II"), [ECF Doc. No. 881](#), filed March 13, 2020.

⁴ Exhibit 1 is a simplified version of Receiver Exhibit 2162 admitted at the February 25, 2020 hearing. Glenda Johnson claims ownership of the 2017 Dodge Durango and the 2016 Chrysler 300, requesting that these be excluded from the Order. Objections II, *supra* note 3, at 2-3 (mis-paginated as 1-2). Because she testified on January 23, 2020 that all of the vehicles on Receiver Exhibit 2162 and titled in her name were purchased with Receivership funds, with the possible exception of the 2014 Chrysler, note 1, *supra*, there is no basis in the evidence for excluding either of the vehicles she now attempts to put at issue.

3. Neldon Johnson and Glenda Johnson are ordered to deliver, by April 10, 2020, each vehicle listed in Exhibit 1 that is drivable or easily towable to the place designated by the Receiver.
4. By April 3, 2020, Neldon Johnson and Glenda Johnson shall deliver to the Receiver titles for each vehicle listed in Exhibit 1. Each title shall be endorsed by Neldon Johnson or Glenda Johnson as being transferred to “Wayne Klein, Receiver for RaPower.” For each vehicle listed in Exhibit 1 for which neither Neldon Johnson nor Glenda Johnson can locate a title, a notarized affidavit shall be delivered to the Receiver by April 10, 2020 stating that no title has been located and that Neldon Johnson and Glenda Johnson intend, by the signing of the affidavit, to transfer to the Receiver all their interest and title to those vehicles.
5. For each vehicle in Exhibit 1 that Neldon Johnson and Glenda Johnson claim is not drivable or easily towable, Neldon Johnson and Glenda Johnson shall deliver to the Receiver by April 3, 2020: a) current photographs of each vehicle, b) information showing the mileage or hours of usage of each vehicle, and c) identification of the specific current location of each vehicle.
6. By April 3, 2020, Neldon Johnson and Glenda Johnson shall deliver to the Receiver all maintenance and service records for each vehicle listed in Exhibit 1 in their possession, custody, or control. If these documents and records are no longer within their control, they must provide information to the Receiver identifying the records, the persons in control of the records, and efforts undertaken to recover the records.
7. For any vehicle not delivered to the Receiver by April 10, 2020, the Receiver and any

other person working for the Receiver or at his direction (including auctioneers, inspectors, and appraisers) shall have free and unrestricted access to each vehicle and the property on which the vehicle is located as is necessary to inspect or transport the vehicle.

8. By April 17, 2020, Neldon Johnson and Glenda Johnson shall file a compliance declaration with the Court: a) certifying compliance with the requirements of this Order, b) describing when each vehicle was last operational, and c) to the extent there is any damage to any of the vehicles, describing when and how the damage occurred.
9. The Receiver is deemed the owner of each vehicle listed on Exhibit 1 and submitting a certified copy of this Order to the Utah Division of Motor Vehicles shall be conclusive evidence that the Receiver is the sole owner of the vehicles.
10. Neldon Johnson, Glenda Johnson, Randale Johnson, LaGrand Johnson and all other persons who receive notice of this Order are hereby restrained and enjoined from taking any action interfering with the Receiver's access to each vehicle or causing or permitting any damage to any vehicle listed on Exhibit 1.
11. The Receiver is authorized to exclude from Exhibit 1 any vehicles where Glenda Johnson notifies the Receiver, by no later than April 3, 2020, that she asserts that particular vehicles were purchased with funds that derived from sources other than Receivership Defendants and Affiliated Entities and provides documentation in support of that assertion. In the event Glenda Johnson disputes the Receiver's refusal to exclude any vehicles from Exhibit 1, she will be permitted to file, by no later than April 10, 2020, a motion with this Court, with a declaration and evidence supporting

her claims, seeking exclusion of the vehicle from the requirement of this Order . The filing of such a motion shall not relieve Glenda Johnson of any obligation under this Order, but the Receiver will refrain from disposing of the vehicle until resolution of any motion timely filed with the Court by Glenda Johnson.

12. Under paragraph 35 of the Corrected Receivership Order, Glenda Johnson and all persons with notice of the Corrected Receivership Order are restrained and enjoined from directly or indirectly taking any action or causing any action to be taken which would interfere with or prevent the Receiver from performing his duties including conduct that hinders, obstructs, or otherwise interferes with the Receiver's efforts to take control of the vehicles.⁵ Specifically, the requirements of this Order and the Corrected Receivership Order are not affected by any claim by Glenda Johnson or others in possession of any of these vehicles for storage or other fees and the March 2, 2020 invoice from Glenda Johnson, attached as Exhibit 2, is declared invalid and of no effect on the Receiver and his agents.
13. The Receiver is authorized to take any other actions reasonably necessary to effectuate the terms and objectives of this Order including signing titles as the authorized representative of the title owner of each vehicle, making repairs to vehicles, securing storage locations, hiring appraisers and auctioneers, and selling the vehicles without further order of this Court. The Receiver, auctioneers, auction bidders, and auction buyers shall have unrestricted access to any property where the

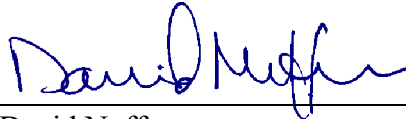
⁵ ECF Doc. No. 491, filed Nov. 1, 2018.

vehicles listed in Exhibit 1 are located.

14. In the event the Receiver or the United States determines that Neldon Johnson, Glenda Johnson, or any other acting on their behalf has failed to comply with any portion of this Order or has interfered with the Receiver's actions to take possession of the vehicles, the Receiver or the United States shall file a notice of non-compliance with the Court. Upon the filing of a notice of non-compliance, the Court may, depending on the severity of the asserted non-compliance or its asserted consequences, issue a bench warrant for the person for incarceration until the Court holds a hearing on the matter.

SIGNED this 27th day of March, 2020.

BY THE COURT:



David Nuffer
United States District Judge