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*Former Counsel for Ra-Power-3, LLC*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

THE UNITED STATES OF AMERICA,

Plaintiff,

v.

RAPOWER-3, LLC, INTERNATIONAL  
AUTOMATED SYSTEMS, INC., NELDON  
JOHNSON, and ROGER FREEBORN,

Defendants.

**NOTICE OF WITHDRAWAL OF  
COUNSEL SNELL & WILMER L.L.P.  
FOR DEFENDANT RAPOWER-3, LLC,  
OR, ALTERNATIVELY, MOTION TO  
WITHDRAW AS COUNSEL OF  
RECORD**

Case No. 2:15-cv-00828

Judge David Nuffer

Pursuant to DUCivR 83-1.4(b), please take notice that David E. Leta and Jeff D. Tuttle of Snell & Wilmer L.L.P. (“**S&W**”) hereby give formal notice of their withdrawal as counsel of record for Defendant RaPower-3, LLC (“**RP3**”), or, in the alternative move to formally withdraw as counsel of record for RP3, in the above-captioned case (this “**Case**”). In support of its withdrawal, S&W states the following:

1. In 2018, S&W was retained by RP3 for the sole and limited purpose of representing RP3’s interests in a bankruptcy petition. On June 29, 2018, RP3 filed for chapter 11 relief in the United States Bankruptcy Court for the District of Utah (the “**Bankruptcy Court**”), commencing Bankruptcy Case No. 18-24865 (the “**Bankruptcy Case**”).

2. On July 5, 2018, as a result of the initiation of the Bankruptcy Case, the Court stayed this Case. *See* Docket Entry Order, July 5, 2018 (no docket number) (the “**Stay Order**”).

3. On July 13, 2018, Plaintiff filed a motion to vacate the Stay Order. *See* Dkt. No. 429 (the “**Motion to Vacate**”).

4. On July 19, 2018, S&W filed a *Notice of Limited Appearance* in this Case for the “purpose of providing this Court with the positions of RP3 as a debtor and debtor in possession in bankruptcy” related to the Motion to Vacate. *See* Dkt. No. 436.

5. S&W filed on behalf of RP3 a limited objection and reservation of rights in response to the Motion to Vacate on the grounds that the issues related to the automatic stay should be addressed in the Bankruptcy Case. *See* Dkt. No. 434.

6. On August 21, 2018, the Court granted the Motion to Vacate. *See* Dkt. No. 441

7. Ultimately, on August 22, 2018, the Court withdrew the reference of the Bankruptcy Case to the Bankruptcy Court and dismissed the Bankruptcy Case. *See* Case No. 2:18-cv-00608, Dkt. No. 6. S&W was further ordered to deposit the outstanding retainer balance (the “**Retainer**”) it was holding in connection with the Bankruptcy Case into the court’s registry. *See* Case No. 2:18-cv-00608, Dkt. No. 17.

8. On August 22, 2018, the Court appointed a receiver (the “**Receiver**”) over the Defendants in this Case, including RP3. *See* Dkt. No. 444.

9. S&W has had no further involvement in representing RP3 in this Case, the Bankruptcy Case, or any other matter, since the Receiver has been appointed.

10. On November 1, 2018, the Court entered the Corrected Receivership Order in which all of the attorneys representing RP3 were dismissed. *See* Dkt. No. 491, ¶ 9.

11. The Receiver instructed, and S&W acknowledged and agreed, that the Receiver was the only person authorized to act on behalf of RP3. Therefore, RP3’s authorized representative in this Case not only had notice that S&W was no longer representing RP3,

including in this Case, but the Receiver affirmatively raised and discussed the issue with S&W. *See* communications between Receiver and S&W attached hereto as Exhibit A.

12. In October of 2019, the Receiver filed suit against S&W to recover certain funds and void certain transfers pursuant to the Utah Fraudulent Transfer Act (“**UFTA**”) and the Utah Voidable Transactions Act (“**UVTA**”), including but not limited to a claim S&W asserted against the Retainer. *See* Case No. 2:19-cv-00853-DN-PK, Dkt. No. 2 (the “**Receivership Litigation**”).

13. On July 21, 2020, settlement of the Receivership Litigation was approved as part of the Court’s Order Granting Receiver’s Sixth Motion for Approval to Consummate Settlements. *See* Dkt. No. 970.

14. Despite the resolution almost two years ago of the only matter for which S&W made even a limited appearance in this Case, the formal dismissal of S&W as counsel for RP3 pursuant to the Corrected Receivership Order, and the settlement of all issues and disputes between S&W and the Receiver, S&W is still listed in the case file as counsel of record. Out of an abundance of caution and to prevent the unnecessary time and expense related to noticing, S&W provides this formal notice of its withdrawal and requests to be removed from the noticing list in this Case.

15. For the above reasons, no prejudice will result to RP3 as a result of this withdrawal. Furthermore, RP3’s representatives have had more than sufficient notice of S&W’s withdrawal as counsel.

16. S&W has circulated this notice to the Receiver, RP3’s current representative, and he has consented to the formal withdrawal of S&W as counsel of record.

DATED: July 29, 2020.

SNELL & WILMER L.L.P.

*/s/ Jeff Tuttle* \_\_\_\_\_

David E. Leta

Jeff D. Tuttle

### CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of July, 2020, I electronically filed the foregoing document with the United States District Court for the District of Utah by using the Court's CM/ECF system. I further certify that the parties of record in this case, as identified below, are listed as registered CM/ECF users and will be served through the CM/ECF system:

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/s/ Jeff Tuttle