

Jonathan O. Hafen (6096) (jhafen@parrbrown.com)
Jeffery A. Balls (12437) (jballs@parrbrown.com)
Michael S. Lehr (16496) (mlehr@parrbrown.com)
PARR BROWN GEE & LOVELESS, P.C.
101 South 200 East, Suite 700
Salt Lake City, Utah 84111
Telephone: (801) 532-7840
Facsimile: (801) 532 7750

Attorneys for Court-Appointed Receiver R. Wayne Klein

**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 SUPPLEMENTAL
MOTION SEEKING AUTHORIZATION
TO SELL ELK RIDGE, UTAH HOME
FREE AND CLEAR OF PURPORTED
INTERESTS**

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

District Judge David Nuffer

Pursuant to 28 U.S.C. §§ 2001(b) and the *Corrected Receivership Order* (“Receivership Order”),¹ Court-Appointed Receiver R. Wayne Klein (the “Receiver”) hereby files this supplement to the Receiver’s Motion Seeking Authorization to Sell Elk Ridge, Utah Home Free and Clear of Purported Interests (the “Motion”).² The Court held a hearing on the Receiver’s Motion on August 28, 2020. At the hearing, the Receiver provided the Court with new facts that

¹[Docket No. 491](#), filed November 1, 2018.

²Docket No. 973, filed July 23, 2020.

had occurred in the days preceding the hearing. Such additional facts are set forth in this supplement to the Motion. A proposed order (“Sale Order”) is submitted herewith.

I. ADDITIONAL FACTS

1. The Receiver published notice of his intent to sell the Elk Ridge Property as ordered by the Court.³

2. The prior offer of \$429,000.00, which was conditionally accepted by the Receiver fell through when the Buyer was unable to obtain financing. The Buyer forfeited the earnest money deposit of \$1,000.

3. After this purchase fell through, the Receiver continued to market the Elk Ridge property.

4. The Receiver received four new offers on the Elk Ridge property. The highest of these offers was for \$446,000.00. The Receiver has entered into a purchase contract to sell the Elk Ridge property at this price.

5. The Receiver believes that the sale of the Property at private sale is beneficial for and in the best interests of the Receivership Estate based on the appraised values of the Property and the amount of the Purchase Agreement, which was obtained through good faith and arms’ length negotiations.

6. The purchase price is above the listing price, higher than two of the three appraisals, and higher than the \$423,333 average of the three appraisals. The purchase price is also above the sales price that the Receiver previously sought approval from the Court.

³Docket No. 1005, filed September 4, 2020.

7. Upon completion of the sale, the Receiver will file with the Court a “Notice of Sale Results,” stating whether higher offers were received and reporting on the Net Sale Proceeds of the sale. This Notice of Sale Results will be served on any parties asserting an interest in the Property.

II. REQUESTED RELIEF

8. The Receiver requests that the Court grant the Motion, authorizing the Sale of the Elk Ridge property for an amount at or above \$429,000.00, free and clear of any purported interests.

9. Counsel for the United States has informed the Receiver that it does not oppose the Receiver’s plans to sell this Property at private sale.

DATED this 22nd day of September 2020.

PARR BROWN GEE & LOVELESS

/s/ Jeffery A. Balls
Jonathan O. Hafen
Jeffery A. Balls
Michael S. Lehr
Attorneys for Receiver

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the foregoing was electronically filed with the Clerk of the Court through the CM/ECF system on September 22, 2020, which sent notice of the electronic filing to all counsel of record.

IT IS FURTHER CERTIFIED that, on the same date, by U.S. Mail, first-class, postage prepaid, I caused to be served the same documents upon the following:

Utah County Treasurer
100 East Center Street, Suite 1200
Provo, UT 84606

/s/ Jeffery A. Balls