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*Attorneys for Court-Appointed Receiver Wayne Klein*

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

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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 SECOND SPECIAL  
REPORT ON STATUS OF  
LITIGATION**

*As of May 15, 2021*

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

District Judge David Nuffer

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R. Wayne Klein, the Court-Appointed Receiver (the "Receiver") of RaPower-3, LLC ("RaPower"), its subsidiaries and affiliates ("Receivership Entities"), and the assets of Neldon Johnson and R. Gregory Shepard, hereby submits this Second Special Report on Status of Litigation ("Report"), as of May 15, 2021.

## I. OVERVIEW

The Receivership Estate was created on October 31, 2018 with entry of the Court's *Receivership Order* ("Order"),<sup>1</sup> which, among other things, appointed the Receiver and continued a previously-entered asset freeze.<sup>2</sup> A May 3, 2019 order expanded the Receivership Estate to include 13 additional affiliated entities ("Affiliated Entities").<sup>3</sup>

On May 24, 2019, the Court granted the Receiver's motion to commence legal proceedings.<sup>4</sup> Since that time, the Receiver has filed over a hundred lawsuits against family members, insiders, law firms, credit card issuers, commission recipients, and others. In addition, the Receiver has made demand on others for returns of amounts improperly paid out by Receivership Entities and has settled approximately 30 of these cases without the necessity of initiating litigation.

This Report summarizes the progress to date of the litigation and settlements. The most significant changes since the prior Litigation Status Report are: a) the Court denied the Receiver's summary judgment motion against Ina Newman, b) Greg Shepard failed to make the agreed-upon payment for his home and the Receiver is now marketing the home, c) two of the settlement delinquencies have been fully paid, d) more settlements have been paid in full, e) additional summary judgment orders have been issued, and f) resolution of the issue involving Glenda Johnson's right to four remaining real properties will be accelerated as a result of the

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<sup>1</sup> [Docket No. 490](#). A *Corrected Receivership Order* ("CRO"), which corrected formatting errors, was entered the following day. [Docket No. 491](#), filed November 1, 2018.

<sup>2</sup> *Memorandum Decision and Order Freezing Assets and to Appoint a Receiver*, [Docket No. 444](#), filed August 22, 2018.

<sup>3</sup> [Docket No. 636](#), filed May 3, 2019. The Court overruled objections to this order. [Docket No. 718](#), filed July 8, 2019. Defendants appealed this order, which appeal was dismissed.

<sup>4</sup> [Docket No. 673](#), filed May 24, 2019.

third contempt order issued against her.

## II. SETTLEMENTS

A. Approved Settlements. The Receiver has filed nine motions for approval of settlement agreements, all of which have been approved. The approved settlements (which are not in default) involve the persons listed in the table below:

<b>Name</b>	<b>Case No.</b>	<b>Case Status</b>	<b>Payment Status</b>
Amidan, Matthew	Settlement without litigation	None	Paid in full
Anderson, Kelvin	2:19-cv-00798-DN-PK	Dismissed	Paid in full
Anderson, Treddis	2:19-cv-00795-DN-PK	Dismissed	Paid in full
Atwood, Steven	Settlement without litigation	None	Paid in full
Aulds, Robert	2:19-cv-00192-DN-PK	Dismissed	17% paid
Ayres, Evan	2:21-cv-00110-DN-PK	Dismissed	Paid in full
Becker, James	2:19-cv-00787-DN-PK	Dismissed	Paid in full
Bell Energy	2:19-cv-00804-DN-PK	Dismissed	43% paid
Black, Scott	2:19-cv-00678-DN-PK	Dismissed	12% paid
Blackburn, Richard	Settlement without litigation	None	Paid in full
Borden, Michael	2:19-cv-00788-DN-PK	Dismissed	Paid in full
Boyack, Wallace	Settlement without litigation	None	Paid in full
Brittain, Bryan	Settlement without litigation	None	Paid in full
Brittain, Kristi & Dw.	2:19-cv-00845-DN-PK	Dismissed	Paid in full
Brumfield, Thad	Settlement without litigation	None	Paid in full
Capital One	Settlement without litigation	None	Paid in full
Carranza, Mark	Settlement without litigation	None	83% paid
Chaston, Steven	2:19-cv-684-DN-PK	Dismissed	Paid in full
Church of Jesus Chr.	Settlement without litigation	None	Paid in full
Citibank	2:19-cv-00834-DN-PK	Dismissed	Paid in full
Coates, Thomas	2:19-cv-00789-DN-PK	Dismissed	Paid in full
Cook, Ryan	2:19-cv-00790-DN-PK	Dismissed	Paid in full
Couch, Jimmy	2:19-cv-00802-DN-PK	Dismissed	Paid in full
DeLong, Robert	2:19-cv-00762-DN-PK	Dismissed	Paid in full
Discover Card	2:19-cv-00837-DN-PK	Dismissed	Paid in full
Gilmore, Mary	Settlement without litigation	None	Paid in full
Gleaves Swearingen	2:19-cv-00841-DN-PK	Dismissed	Paid in full

Gregg, Peter	Settlement without litigation	None	Paid in full
Griffin Painting	2:19-cv-00844-DN-PK	Dismissed	Paid in full
Hale & Wood	Settlement without litigation	None	Paid in full
Hamilton, Monty	2:19-cv-00823-DN-PK	Dismissed	Paid in full
Hyatt, Rodney	2:19-cv-00777-DN-PK	Dismissed	Paid in full
Johnson, Robert	Settlement without litigation	None	Paid in full
Jordan, Edward	2:19-cv-00703-DN-PK	Jordan dismissed	Paid in full
Jordan, Mickey	Settlement without litigation	None	Paid in full
JP Morgan Chase Bk.	2:19-cv-00838-DN-PK	Dismissed	Paid in full
Kulacz, Connie	2:19-cv-00679-DN-PK	Dismissed	Paid in full
Lawyer, Kristin	Settlement without litigation	None	Paid in full
Lewis, Natalyn	2:19-cv-00801-DN-PK	Dismissed	Paid in full
Mahler, Mike	2:19-cv-00715-DN-PK	Dismissed	74% paid
McGan, James	Settlement without litigation	None	Paid in full
Neven, Lance	Settlement without litigation	None	83% paid
North, Michael	Settlement without litigation	None	Paid in full
Orgill, Pamela	2:19-cv-00681-DN-PK	Dismissed	Paid in full
Orth, Matthew	Settlement without litigation	None	Paid in full
Orth, Richard	Settlement without litigation	None	Paid in full
Pack, Bill	2:19-cv-00815-DN-PK	Dismissed	None required
Palmore, Carl	2:19-cv-00718-DN-PK	Dismissed	Paid in full
Pionk, Herbert	Settlement without litigation	None	Paid in full
Pionk, Sadie	Settlement without litigation	None	Paid in full
Pri-Med	Settlement without litigation	None	Paid in full
Rowbotham, Robert	2:20-cv-00193-DN	Dismissed	95% paid
Shepard, Greg	Settlement re: residence sale	None	Property sale
Sikich, Mark	Settlement without litigation	None	Paid in full
Smith, Kelvin	2:19-cv-00680	Dismissed	26% paid
Snell & Wilmer	Settlement without litigation	None	Paid in full
Sorenson, Bryan	Settlement without litigation	None	Paid in full
Swenson, Lyle	2:19-cv-00682-DN-PK	Dismissed	Paid in full
Tiffin Commun. Fdn.	Settlement without litigation	None	Paid in full
Virkus, Sandra	Settlement without litigation	None	Paid in full
Williams, Lynette	2:19-cv-00696-DN-PK	Dismissed	Paid in full
Young, Carolyn	Settlement without litigation	None	Paid in full
Zelevnik, Brian	Settlement without litigation	None	Paid in full

B. Delinquent Settlements. The defendants who are delinquent in their settlement agreement obligations are:

a. Abdullah, Fareed. He has paid \$991.50 of the \$5,991.50 owed pursuant to a settlement reached before any lawsuit was filed. The Receiver is evaluating whether to initiate litigation;

b. Luke, Shane. Case No. 2:19-cv-00688-DN-PK. Luke paid \$1,000 toward the \$16,500 he agreed to pay but has failed to pay the remainder. The Receiver will initiate an action to collect the amounts owed.

c. Bowers, Steven. Case No. 2:19-cv-00530-DN-PK. In exchange for a promise to pay an additional \$2,500, the Receiver granted an extension until April 13, 2021. Bowers has failed to make any payment toward the \$19,800 he owes. The Receiver will initiate an action against Bowers for breach of the settlement agreement.

### III. SUMMARY JUDGMENT ORDERS

The Court has granted the Receiver summary judgment in the following cases:

Defendant	Case No.	Judgment Date	Judgment Amount	Pre-Judgment Interest
Armand, Jean	2:19-cv-00779	4/7/21	\$13,760.15	\$2,107.36
Bennett, Amber	2:19-cv-00703	5/13/21	\$7,161.00	\$1,049.63
Brennan, Paul	2:19-cv-00687	4/19/21	\$95,591.76	\$14,862.55
Hadderton, Carey	2:19-cv-00704	5/13/21	\$87,522.67	\$12,061.34
Hamblin, Roger	2:19-cv-00783	5/14/21	\$481,100.64	\$85,318.56
Howell, John	2:19-cv-00705	5/13/21	\$53,752.44	\$7,451.71
Howell: Rocking H	2:19-cv-00705	5/13/21	\$254,080.43	\$32,090.71
Jones, Paul <sup>5</sup>	2:19-cv-00693	4/15/21	\$65,311.75	\$10,315.68
Kerr, Gracie & Kevin	2:19-cv-00768	4/19/21	\$40,944.70	\$5,771.52
Newman, Kirk	2:19-cv-00694	4/27/21	\$12,828.90	\$3,259.19

<sup>5</sup> An appeal of this judgment has been filed.

Roe, Janet <sup>6</sup>	2:19-cv-00719	4/16/21	\$47,313.34	\$6,520.17
Scraggs, Joseph	2:19-cv-00727	4/15/21	\$9,852.75	\$1,338.89
Shepherd, Trudy <sup>7</sup>	2:19-cv-00695	4/15/21	\$72,123.14	\$20,194.48
Turner, Jeffrey	2:19-cv-00767	4/16/21	\$13,020.00	\$3,208.63
Woodson, James	2:19-cv-00794	5/14/21	\$29,633.50	\$4,067.50

#### IV. SUMMARY JUDGMENT MOTIONS GRANTED, AWAITING ISSUANCE OF ORDERS

In the cases listed in the table below, the Court has ruled that it will grant summary judgment to the Receiver. The Receiver has submitted proposed orders to the Court and is awaiting the entry of judgments.

Name	Case No.	Date Proposed Order Submitted
Day, Melvin Thomas/IFS	2:19-cv-00692	3/16/21
Finkes, Reinhold	2:19-cv-00761	3/16/21
Manley, Mark	2:19-cv-00716	3/16/21
Payne, Linda/Steven	2:19-cv-00791	3/22/21
Plater, Dallas	2:19-cv-00792	3/22/21
Searcy, Richard	2:19-cv-00776	3/16/21
Welborn, Lindy	2:19-cv-00780	3/16/21

#### V. DEFAULTS

The Receiver has obtained default judgments in the cases listed in the table below. In the near future, the Receiver intends to file a motion seeking approval to assign these and other judgments to the United States Treasury for collection.

Name	Case No.	Judgment Date	Judgment Amount	Pre-Judgment Interest
Battle, Hinton	2:20-cv-00010	2/24/21	\$18,657.30	\$2,461.23
Bean, Joel	2:19-cv-00702	2/24/21	\$16,018.10	\$1,533.79
Hampton, Michael	2:19-cv-00778	2/24/21	\$9,499.75	\$1,391.13
K. Hawes Associates	2:19-cv-00840	9/25/20	\$25,512.00	\$2,897.19
Mooney, Thomas	2:19-cv-00717	9/16/20	\$15,425.85	\$1,715.86
Smith, Debbie	2:19-cv-00728	4/13/20	\$18,469.80	\$1,664.81

<sup>6</sup> An appeal of this judgment has been filed.

<sup>7</sup> An appeal of this judgment has been filed.

Stilson, Dennis	2:19-cv-00689	2/24/21	\$32,471.25	\$3,327.19
Tilden, Robert	2:19-cv-00793	2/23/21	\$43,775.40	\$9,948.41

## **VI. DISMISSED LITIGATION**

The Receiver has dismissed two of the lawsuits he filed without pursuing further litigation or settlements. These were against Korry Ardell and Ryan Davies. On an ongoing basis, as settlement agreements are approved and a pattern of payments is established, the Receiver dismisses the lawsuits underlying those settlements.

## **VII. OTHER LITIGATION**

The status of the 22 remaining lawsuits filed by the Receiver are listed in the table below:

<b>Name</b>	<b>Case No.</b>	<b>Type of Case</b>	<b>Status</b>
Clement, Jason	2:19-cv-00729	Commissions	Have default certificate, will move for default judgment.
Kinsey, Suncore, Edde Enterprises	2:19-cv-00729	Commissions	Pretrial conference set for 10/12/21.
Frandsen, Hutchings	2:19-cv-00660	Shepard debts	Answer filed by Hutchings.
Freeborn, Jacqueline	2:19-cv-00843	Insider	Evaluating assets of Freeborn estate
Heideman & Assoc.	2:19-cv-00854	Attorney	Discovery deadline set for 8/27/21.
Jameson, Richard	2:19-cv-00822	Insider	Pretrial conference set for 2/10/22.
Johnson, Glenda	2:19-cv-00625	Insider	Pretrial conference set for 3/14/22; counsel withdrew; G. Johnson submission due 6/14/21 re; source of funds for four real properties.
Johnson, Jeron	2:19-cv-00799	Commissions	Scheduling conference on 5/25/21.
Johnson, LaGrand	2:19-cv-00534	Insider	Pretrial conference set for 3/14/22.
Johnson, Randale	2:19-cv-00532	Insider	Pretrial conference set for 3/14/22.
King, Steven	2:19-cv-00706	Commissions	Pretrial conference set for 6/8/22.
Kontos, Nicholas	2:20-cv-00190	Commission	Summary judgment motion fully briefed, Receiver to file notice to submit.
Lunn, Frank; Kahuna	2:19-cv-00835	Commissions	Receiver to seek approval of signed settlement agreement.
Nelson Snuffer	2:19-cv-00851	Attorney	Pretrial conference set for 6/8/22.

Newman, Ina	2:19-cv-00623	Insider	Receiver's summary judgment motion denied; pretrial conference set for 8/10/21.
Plaskolite, LLC	2:19-cv-00832	Supplier	Pretrial conference set for 12/9/21.
Reay, Donald	2:19-cv-00856	Attorney	Pretrial conference set for 3/10/22.
Shepard, Mark	2:19-cv-00803	Insider	Pretrial conference set for 6/9/22.
Shepard, Matthew	2:19-cv-00533	Insider	Pretrial conference set for 3/14/22.
Snow, Stacy Curtis	2:19-cv-00757	Insider	Pretrial conference set for 3/14/22.
Stewart, Raleigh	2:19-cv-00726	Commissions	Pretrial conference set for 6/9/22.
Taylor, Christopher	2:19-cv-00816	Insider	Pretrial conference set for 12/9/21.
Zeigler, Andrew	2:19-cv-00769	Commissions	Pretrial conference set for 6/7/22.

**VIII. APPEALS**

As of May 15, 2021, three appeals of summary judgment orders have been filed:

<b>Name</b>	<b>Case No.</b>	<b>Appeal No.</b>	<b>Date of Appeal</b>
Jones, Paul	2:19-cv-00693	21-4066	5/13/21
Roe, Janet	2:19-cv-00719	21-4065	5/13/21
Shepherd, Trudy	2:19-cv-00695	21-4064	5/7/21

**IX. CONCLUSION**

The Receiver certifies that the information in this Second Special Report on Status of Litigation is accurate to the best of his knowledge.

  
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 Wayne Klein  
 Receiver

DATED this 20<sup>th</sup> day of May 2021.

**PARR BROWN GEE & LOVELESS**

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



**CERTIFICATE OF SERVICE**

IT IS HEREBY CERTIFIED that service of the above **RECEIVER'S SECOND SPECIAL REPORT ON STATUS OF LITIGATION** was electronically filed with the Clerk of the Court through the CM/ECF system on May 21, 2021. I further certify that the above **RECEIVER'S SECOND SPECIAL REPORT ON STATUS OF LITIGATION** was mailed, postage prepaid, to:

Neldon P. Johnson  
Post Office Box 332  
South Jordan, UT 84095

R. Gregory Shepard  
858 W. Clover Meadow Dr.  
Murray, Utah 84123

*/s/ Wendy V. Tuckett*

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