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**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 ELEVENTH QUARTERLY
STATUS REPORT**

For the period April 1, 2021 to June 30, 2021

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

District Judge David Nuffer

R. Wayne Klein, the Court-Appointed Receiver (the "Receiver") of RaPower-3, LLC ("RaPower"), International Automated Systems, Inc. ("IAS"), and LTB1, LLC ("LTB1"), as well as 13 subsidiaries and affiliates (collectively, the "Receivership Entities"), and the assets of Neldon Johnson ("Johnson") and R. Gregory Shepard ("Shepard") (collectively "Receivership Defendants"), hereby submits this Eleventh Quarterly Status Report ("Report") for the period from April 1, 2021 to June 30, 2021 ("Reporting Period").

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I. INTRODUCTION AND BACKGROUND

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

Significant developments during the Reporting Period include closing on the sale of one real property, negotiation of additional settlement agreements, obtaining a contempt order against Glenda Johnson, Roger Hamblin, and Preston Olsen, and a distribution of an additional \$1.0 million to the U.S. Treasury.

II. ASSET RECOVERY, SETTLEMENTS

A. Interest in Greg Shepard Residence. On December 7, 2020, the Court ruled that Greg Shepard owns a one-half interest in his residence, ordered Diana Shepard to execute a deed for half interest in the home to the Receiver, and authorized the Receiver to sell the home.⁴ In lieu of transferring half the title to the Receiver, the Shepards entered into an agreement with the Receiver whereby a third party was to pay the Receivership the cash value of half the home's equity, which agreement the Court approved.⁵ The third party failed to make payment to the Receiver, despite two extensions of time. Consequently, the Shepards moved out of the home in early May 2021 and the property was listed for sale. See the discussion in the next Part.

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

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

³[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.

⁴[Docket No. 1029](#), filed December 7, 2020.

⁵[Docket no. 1089](#), filed February 16, 2021.

B. Retirement and Bank Accounts of Randale Johnson. In response to the Court's order finding deficiencies in Randale Johnson's production of bank records,⁶ both Randale and LaGrand Johnson have been providing copies of their account statements to the Receiver on a monthly basis. Based on the account statements being delivered, funds in the accounts are at the levels ordered by the Court.

C. Obtaining Vehicle Titles. With the additional vehicle titles received during the Reporting Period (and signed over to Sahara Motors), the Receiver believes he has obtained titles for all the vehicles of value.

D. Settlements. The Receiver filed one motion to approve settlements,⁷ which was approved by the Court shortly after the end of the Reporting Period.⁸ The six settlements included in the approved Tenth Motion will bring in \$146,001.45 when all required payments have been received. During the quarter, the Receiver received \$211,699.36 on these and previous settlement agreements. The Receiver anticipates additional settlements in the coming months.

III. REAL PROPERTIES, DISPOSITION OF OTHER ASSETS

A. Turnover Order Properties: Sales Closed. Glenda Johnson turned over 14 properties to the Receiver in September 2020 pursuant to Court order.⁹ As of the end of the prior Reporting Period, nine of these properties had been sold. During the current reporting period a tenth property sale closed and the remaining four properties were sold. These remaining four properties are awaiting closings. The property sale that closed during the quarter was:

⁶[Docket no. 1057](#), filed December 29, 2020.

⁷Tenth Motion to Approve Settlements, docket no. 1130, filed June 30, 2021.

⁸Docket no. 1136, filed July 6, 2021.

⁹[Docket no. 1007](#), filed September 15, 2020.

1. 80-Acre Property in Millard County (Parcel No. HD-4648). This property was appraised at \$24,000 and the Receiver accepted an offer of \$26,000. After requesting Court approval for a public sale at auction, the Court approved the publication notice and sale at auction.¹⁰ At the auction, one additional bidder prequalified and participated in the auction. The high bid at the auction was \$35,000 by the new bidder. The sale closed on April 15, 2021, netting \$32,843.57 for the Receivership Estate. A notice of sale results was filed reporting on details of the sale.¹¹

B. Pending Closing of Property Sales. The four properties that were sold during the quarter and are awaiting closing are:

1. Oasis Warehouse in Millard County (Parcel No. DO-4568-1). The warehouse was appraised at \$325,280. The Receiver preliminarily accepted an offer of \$300,000 and filed a motion seeking approval for a public sale.¹² The motion was approved¹³ and the auction was held June 3, 2021, with the stalking horse bidder and one additional bidder participating. The bidding started at \$300,000 and ended at \$420,000 with the stalking horse bidder making the high bid. The title company identified a defect in the legal description contained in the order approving the sale. After consultation with the insurance underwriter, the title company agreed to move forward with the closing without requiring the Receiver to obtain a corrected order. The stalking horse bidder has notified the Receiver he is not going to consummate the purchase and will forfeit his earnest money deposit. The Receiver has offered the property to the backup bidder. If the

¹⁰[Docket no. 1064](#), filed January 13, 2021.

¹¹Docket no. 1120, filed May 4, 2021.

¹²[Docket no. 1112](#), filed March 30, 2021.

¹³Docket no. 1119, filed April 26, 2021.

backup bidder declines, the Receiver will re-list the property for sale. The warehouse has been cleared of all equipment and materials except for approximately 68 pallets of Plaskolite-manufactured lenses. With the consent of Plaskolite, the Receiver has agreed to sell that plastic to a buyer for \$7,000.

2. Purchase Option for 1,000 Acres in Millard County (Parcel No.'s HD-3511, HD-3511-1, MA-2662-B). These three parcels together have an appraised value of \$330,680. The Receiver previously accepted an offer to sell the 40-acre parcel (HD-3511-1),¹⁴ but the buyer failed to close and forfeited his earnest money deposit. Subsequently, a company planning a photovoltaic solar farm expressed a desire to obtain purchase options for the three parcels. The established photovoltaic solar company offered to pay annual option fees for the property and pay \$1.5 million for the property if the purchase option is exercised. After consultation with the United States, the Receiver signed an initial agreement for the purchase option and filed a motion seeking Court approval of the option agreement.¹⁵ Following the Court's approval of the motion,¹⁶ the Receiver published notice of the proposed purchase option arrangement. No other bidders prequalified to bid at the auction so the Receiver canceled the public auction and notified the option purchaser that the Receiver was prepared to sign a lease option agreement. The buyer and the Receiver are in the process of negotiating the language of the purchase agreement.

¹⁴[Docket no. 1023](#), filed November 9, 2020.

¹⁵[Docket no. 1109](#), filed March 23, 2021.

¹⁶Docket no. 1117, filed April 20, 2021.

C. Property with Pending Offer. The Receiver has preliminarily accepted an offer to purchase the Shepard home in Murray, Utah. The home appraised at \$595,000. In cooperation with Greg Shepard, the Receiver engaged a real estate broker to list the home. The Receiver is now paying the utilities and for lawn maintenance. Cleanup of the property was required, including cleaning outdoor ponds, hauling away furniture, and cleaning deck areas. A contractor made repairs to the sheetrock. The home was listed for sale on June 14 for \$649,900. Three offers were received, with the highest offer being \$660,009. The Receiver submitted a counteroffer accepting the price but conditioning the sale on court approval of a public sale. The buyer accepted the terms of the Receiver's counteroffer on June 30, 2021. The Receiver filed a motion seeking court approval of the sale on July 21, 2021.¹⁷

D. Update on Hazardous Materials. A private hazardous waste disposal company is scheduled to make its first visit in July to the site where the chemicals are stored and obtain samples of each container. When the testing of those samples is completed, the company will remove and dispose of the chemicals.

E. Four Millard County Properties Titled in the Name of Glenda Johnson. Glenda Johnson is the title owner of four additional properties in Millard County that were not the subject of the original Turnover Motion. Those properties are the subject of a separate lawsuit filed by the Receiver against Glenda Johnson, which litigation is ongoing.¹⁸ This is discussed below.

¹⁷Docket no. 1140, filed July 21, 2021.

¹⁸2:19-cv-00625-DN-PK.

F. List of Properties in the Receivership Estate. Attached as Exhibit 1 is a table showing the status of all real properties in the Receivership Estate.

G. Distributions to the United States, Department of Justice. On April 22, 2021, the Receiver paid an additional distribution of \$1,000,000.00 to the United States Treasury, as directed by paragraph 89(b) of the CRO.

IV. LITIGATION

A. Special Report on Status of Litigation. The Receiver filed a second special report on the status of litigation,¹⁹ summarizing the status of settlements, summary judgment motions, default applications, and ongoing litigation. The Receiver will continue filing similar reports every three months so long as significant litigation remains.

B. Summary Judgment Motions. The Court granted the Receiver summary judgment in 20 of the recovery actions brought by the Receiver against persons who were paid commissions for selling lenses. These are listed in the table below. Several of these have filed appeals and one has settled with the Receiver.

Defendant	Case No.	Judgment Date	Judgment Amount	Pre-Judgment Interest
Armand, Jean ²⁰	2:19-cv-00779	4/7/21	\$13,760.15	\$2,107.36
Bennett, Amber ²¹	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
Finkes, Reinhold	2:19-cv-00761	6/22/21	\$61,905.40	\$8,556.51
Hadderton, Carey ²²	2:19-cv-00704	5/13/21	\$87,522.67	\$12,061.34
Hamblin, Roger ²³	2:19-cv-00783	5/14/21	\$481,100.64	\$86,318.56

¹⁹Docket no. 1122, filed May 21, 2021.

²⁰An appeal of this judgment has been filed.

²¹An appeal of this judgment has been filed.

²²An appeal of this judgment has been filed.

²³An appeal of this judgment has been filed.

Howell, John ²⁴	2:19-cv-00705	5/13/21	\$53,752.44	\$7,451.71
Howell: Rocking H ²⁵	2:19-cv-00705	5/13/21	\$254,080.43	\$32,090.71
Jones, Paul ²⁶	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
Manley, Mark	2:19-cv-00716	6/22/21	\$15,635.55	\$2,383.89
Newman, Kirk	2:19-cv-00694	4/27/21	\$12,828.90	\$3,259.19
Payne, Linda/Steven	2:19-cv-00791	6/22/21	\$32,737.50	\$8,283.04
Plater, Dallas	2:19-cv-00792	6/24/21	\$15,807.00	\$2,988.17
Roe, Janet ²⁷	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
Searcy, Richard	2:19-cv-00776	6/22/21	\$56,000.25	\$7,901.41
Shepherd, Trudy ²⁸	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
Welborn, Lindy	2:19-cv-00780	6/22/21	\$41,677.48	\$5,903.36
Woodson, James	2:19-cv-00794	5/14/21	\$29,633.50	\$4,067.50
Totals			\$1,507,760.35	\$246,634.30

C. Other Recovery Actions. There are 20 recovery actions brought by the Receiver that are still pending. Most of these are in the late stages of fact discovery and expert discovery.

D. Appeals. Ten appeals that have been filed are still pending. Nine of these were filed during the Reporting Period.

1. Neldon Johnson. Neldon Johnson appealed the Court's denial of his motion to set aside the judgment.²⁹ That appeal is pending (#21-4015).

2. Glenda Johnson. Glenda Johnson appealed the Court's order awarding attorneys' fees and costs for her third contempt finding, relating to her filings of property liens. That appeal, filed July 1, 2021,³⁰ is pending (#21-4080).

²⁴An appeal of this judgment has been filed.

²⁵An appeal of this judgment has been filed.

²⁶An appeal of this judgment has been filed.

²⁷An appeal of this judgment has been filed.

²⁸An appeal of this judgment has been filed.

²⁹[Docket no. 1081](#), filed February 9, 2021.

³⁰Although this was after the end of the Reporting Period, it relates to the fee order issued during the Reporting Period.

3. Commission Recipient Appeals. As of the end of the Reporting Period, eight commission recipients have appealed summary judgment orders entered against them. The appeal filed by Trudy Shepherd (#21-4064) is being pursued pro se. Ms. Shepherd has filed her initial brief and the Receiver filed his response on July 14, 2021. Neither side has requested oral argument. For the other seven appeals, Nelson Snuffer represents the appellants. These appellants are Janet Roe (#21-4065), Paul Jones (#21-4066), Jean Armand (#21-4071), Amber Bennett (#21-4072), Roger Hamblin (#21-4075), John Howell/Rocking H (#21-4076), and Carey Hadderton (#21-4077). No briefing has been filed with any of these seven appeals. Tenth Circuit mediation of these appeals is scheduled for July.

E. Tax Court Ruling. On April 6, 2021, the United States Tax Court issued its ruling in *Olsen v. IRS*.³¹ This was a test case for whether the tax benefits claimed by lens purchasers were allowable. The Tax Court ruled that Olsen was not engaged in a trade or business, the property was not held for the production of income, the plastic lenses were not “placed in service,” and the claimed losses were connected to “passive activity.” As a result of this ruling, approximately 220 other Tax Court cases against purchasers of solar lenses are expected to proceed.

V. INTERFERENCE BY GLENDA JOHNSON, OTHERS

A. Liens Improperly Filed Against Receivership Property. On April 14, 2021, the Court entered a contempt order against Glenda Johnson, Roger Hamblin, and Preston Olsen.³² This was the third contempt finding against Glenda Johnson. The contempt finding related to

³¹U.S. Tax Court, docket no’s 26469-14 and 21247-16.

³²Docket no. 1116, filed April 14, 2021.

post-CRO property liens improperly recorded by the contemnors on real properties belonging to the Receivership Estate. Hamblin and Olsen stipulated to findings of contempt. They agreed to pay, and paid, a portion of the attorney's fees requested by the Receiver. The Court awarded \$69,518.54 in fees incurred by the Receiver and his counsel.³³ As noted above, Glenda Johnson has appealed the attorney's fee order. She has paid nothing toward the amount ordered.

The contempt order also declared that Glenda Johnson's continued interference with the Receiver's management of Receivership Property warranted shifting the burden to her to demonstrate that non-receivership funds were used to purchase four properties in Millard County that are still titled in her name. Glenda Johnson failed to submit evidence, before the required deadline, of the source of funds used for those property purchases. On June 30, 2021, the Receiver filed *Motion for Turnover of Real Property*,³⁴ relating to these properties, which Glenda Johnson has opposed.³⁵ That matter is pending.

VI. FINANCIAL OPERATIONS OF THE RECEIVERSHIP ESTATE

A. Receipts and Disbursements. The tables below show the amounts and sources of funds brought into the Receivership Estate during the quarter and categories of expenditures:

Revenue into the Receivership Estate	
Source of Revenue	Amount In
Real estate sale proceeds ³⁶	\$31,093.57
Contempt payments	\$16,000.00
Settlement payments	\$211,699.36
Refunds (insurance & utilities)	\$1,422.70
Bank interest	\$13.25
Total	\$260,228.88

³³Docket no. 1128, filed June 22, 2021.

³⁴Docket no. 34 (2:19-cv-00625), filed June 30, 2021.

³⁵Docket no. 35 (2:19-cv-00625), filed July 8, 2021.

³⁶One thousand dollars of this amount was a bid deposit that was refunded.

Expenditures	
Type of Expenditure	Amount
Real estate: survey, publication	\$3,808.60
Real estate: repairs, utilities	\$4,665.21
Tax preparation, filing fee	\$4,215.00
Other operating expenses	\$239.65
Total	\$12,928.46

In April, the Receiver sent \$1,000,000.00 to the United States as a distribution towards the amount awarded by the Court.

The Receiver filed a fee application on June 4, 2021,³⁷ which was approved after the end of the Reporting Period.³⁸ These payments will be reflected in the next quarterly report.

B. Bank Account Balances. The following table shows the balance of funds in the Receivership bank accounts at Wells Fargo Bank as of June 30, 2021:

Bank Account Balances	
Account	Amount
Checking account	\$323,527.90
High yield savings ³⁹	\$300,472.26
Total	\$624,000.16

VII. NEXT STEPS

The significant next steps in the Receivership will be:

A. Sell Real Properties. The Receiver hopes to be able to close on the sale of the Oasis warehouse to the backup bidder. If the backup bidder fails to close, the Receiver will re-market the sale of the property. The Receiver expects to sell the Shepard home at an auction during the quarter and to sign an option purchase agreement for the three parcels (1,000 acres)

³⁷Docket no. 1126, filed June 4, 2021.

³⁸Docket no. 1139, filed July 14, 2021. The court requested supplemental briefing on interrelationships between the contempt fee award and the fee application (#1129), which was submitted by the Receiver (#1138).

³⁹This amount includes \$100,000 that the Turnover Order directed be preserved pending resolution of the Receiver's separate lawsuit against Glenda Johnson.

contemplated for use by a photovoltaic solar company. If the Court grants the Receiver's turnover motion for the four properties still in Glenda Johnson's name, the Receiver will take possession and title to, and market, those properties.

B. Ongoing Litigation. The Receiver has engaged in settlement discussions in approximately five of the 20 litigation cases still pending. If agreements are reached in some of those cases (and perhaps others), the settlements will be submitted to the Court for approval. Until such time, litigation will continue on these 20 litigation cases. Most of these cases are in the late stages of discovery. The Receiver may file additional motions for summary judgment.

C. Appeals. Counsel for the Receiver will defend nine of the appeals that have been filed; the tenth is being defended by the United States. Many of the appeals are similar, which should reduce the amount of time required to defend them. The Receiver does not yet know if some of the appeals will be consolidated for briefing or oral argument.

D. Collection on, Assignment of, Judgments. The Receiver is consulting with counsel for the United States on the most efficient means of collecting on judgments that have been obtained. Different approaches may be used for different judgments.

VIII. CONCLUSION

Steady progress was made during the Reporting Period. More properties were sold and the issue of ownership of four properties titled in the name of Glenda Johnson is closer to being resolved. More summary judgment orders were entered and more settlement agreements were approved, significantly reducing the number of pending litigation cases. However, nine new appeals were filed during the quarter, which will require additional work and postpone final determination of the Receiver's claims against those defendants. The Receiver and the United

States are working together to determine the best means of collecting on judgments already granted. Those decisions will affect how much additional time the Receiver and his counsel will spend.

The Receiver certifies that the information in this Eleventh Quarterly Status Report is accurate to the best of his knowledge.



Wayne Klein
Receiver

DATED this 29th day of July, 2021.

PARR BROWN GEE & LOVELESS

/s/ Jonathan O. Hafen

Jonathan O. Hafen
Michael S. Lehr
Attorneys for Receiver

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the above **RECEIVER'S ELEVENTH QUARTERLY STATUS REPORT** was electronically filed with the Clerk of the Court through the CM/ECF system on July 29, 2021, which sent notice of the electronic filing to all counsel of record. Copies were also mailed to the following:

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

Neldon Johnson
PO Box 95332
South Jordan, UT 84095

Pro se Defendants

/s/ Michael S. Lehr _____