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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 THIRD SPECIAL REPORT
ON STATUS OF LITIGATION**

As of August 16, 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”), its subsidiaries and affiliates (“Receivership Entities”), and the assets of Neldon Johnson and R. Gregory Shepard, hereby submits this Third Special Report on Status of Litigation (“Report”), as of August 16, 2021.

I. OVERVIEW

The Receivership Estate was created on October 31, 2018 with entry of the Court’s *Receivership Order* (“Order”).¹ Thirteen affiliated entities were added on May 3, 2019.²

¹[Docket No. 490](#). A *Corrected Receivership Order* (“CRO”) was entered the following day. [Docket No. 491](#), filed November 1, 2018.

²[Docket No. 636](#), filed May 3, 2019.

On May 24, 2019, the Court granted the Receiver's motion to commence legal proceedings.³ 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) summary judgment orders were issued in seven cases where summary judgment orders had been pending,⁴ b) additional settlement agreements were negotiated by the Receiver and approved by the Court, c) the Court granted the Receiver's turnover motion for four properties owned by Glenda Johnson, reducing claims the Receiver still has pending against her, d) numerous appeals have been filed, and e) the 21 pending, unresolved cases have been reduced by five, plus partial settlement of a sixth case.

II. SETTLEMENTS

A. Approved Settlements. The Receiver has filed 11 motions for approval of settlement agreements, all of which have been approved. The approved settlements (which are not in default) involve the defendants listed in the table below:

Name	Case No.	Case Status	Payment Status
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	24% paid

³Docket No. 673, filed May 24, 2019.

⁴The Receiver settled a eighth case where his summary judgment motion was pending.

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	20% 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	96% 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
Day, Thomas	2:19-cv-00692-DN-PK	Dismissed	33% paid
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
Jones, Paul	2:19-cv-00693-DN-PK	Dismissed	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
Kinsey, Ed	2:19-cv-00190-DN-PK	To partially dismiss ⁵	0% paid (new)

⁵ Kinsey, Edde Enterprises, and SunCore will be dismissed. Receiver will seek default judgment against Clement.

Kontos, Nicholas	2:20-cv-00802-DN-PK	Judgment	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
Lunn, Frank (Kahuna)	2:19-cv-00835-DN-PK	Dismissed	Paid in full
Mahler, Mike	2:19-cv-00715-DN-PK	Dismissed	Paid in full
Manley, Mark	2:19-cv-00716-DN-PK	Judgment	Paid in full
McGan, James	Settlement without litigation	None	Paid in full
Neven, Lance	Settlement without litigation	None	83% paid
Newman, Kirk	2:19-cv-00694-DN-PK	Judgment	31% 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
Plater, Dallas	2:19-cv-00792-DN-PK	Judgment	Paid in full
Pri-Med	Settlement without litigation	None	Paid in full
Reay, Donald	2:19-cv-00856-DN-PK	To dismiss	0% paid (new)
Rowbotham, Robert	2:20-cv-00193-DN	Dismissed	Paid in full ⁶
Searcy, Richard	2:19-cv-00776-DN-PK	Judgment	8% paid
Shepard, Mark	2:19-cv-00803-DN-PK	Dismissed	19% paid
Sikich, Mark	Settlement without litigation	None	Paid in full
Smith, Kelvin	2:19-cv-00680-DN-PK	Dismissed	34% 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
Welborn, Lindy	2:19-cv-00780-DN-PK	Judgment	0% paid (new)
Williams, Lynette	2:19-cv-00696-DN-PK	Dismissed	Paid in full
Woodson, James	2:19-cv-00794-DN-PK	Judgment	29% paid
Young, Carolyn	Settlement without litigation	None	Paid in full

⁶Initial settlement amount paid in full. An additional \$2,000 has been paid against a stipulated judgment.

Zeigler, Andrew	2:19-cv-00769-DN-PK	Dismissed	Paid in full
Zeleznik, 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 to make the settlement payment. 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.

d. Shepard, Greg. Shepard failed to make the cash payment contemplated by the settlement. Instead, the home is in the process of being sold, which will satisfy the amount of the settlement.

III. SUMMARY JUDGMENTS TO COLLECT

The cases listed in the table below are those where the Court granted the Receiver summary judgment, where there are no settlements or appeals. The Receiver will coordinate with counsel for the United States in commencing collection on these judgments:

Defendant	Case No.	Judgment Date	Judgment Amount	Pre-Judgment Interest
Brennan, Paul	2:19-cv-00687	4/19/21	\$95,591.76	\$14,862.55
Kerr, Gracie & Kevin	2:19-cv-00768	4/19/21	\$40,944.70	\$5,771.52
Payne, Linda	2:19-cv-00791	6/22/21	\$32,737.50	\$8,283.04
Scraggs, Joseph	2:19-cv-00727	4/15/21	\$9,852.75	\$1,338.89
Turner, Jeffrey	2:19-cv-00767	4/16/21	\$13,020.00	\$3,208.63

IV. DEFAULT JUDGMENTS TO COLLECT

The Court has granted default judgments in the cases in the table below. The Receiver will coordinate with counsel for the United States in commencing collection on these judgments.

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
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

V. APPEALS

As of August 16, 2021, appeals relating to the return of sales commission have been filed in the cases listed below. All these appeals, other than that of Trudy Shepherd, will be consolidated for briefing.⁷

Name	Case No.	Appeal No.	Date of Appeal	Status
Armand, Jean	2:19-cv-00779	21-4071	5/27/21	Initial brief due 10/1/21
Bennett, Amber	2:19-cv-00703	21-4072	6/10/21	Initial brief due 10/1/21
Finkes, Reinhold	2:19-cv-00761	21-4090	7/22/21	Initial brief due 10/1/21
Hadderton, Carey	2:19-cv-00704	21-4077	6/10/21	Initial brief due 10/1/21
Hamblin, Roger	2:10-cv-00783	21-4075	6/4/21	Initial brief due 10/1/21
Howell, John	2:19-cv-00705	21-4076	6/10/21	Initial brief due 10/1/21

⁷Paul Jones (2:19-cv-00693) filed an appeal, but subsequently settled. His appeal will be dismissed.

Roe, Janet	2:19-cv-00719	21-4065	5/13/21	Initial brief due 10/1/21
Shepherd, Trudy	2:19-cv-00695	21-4064	5/7/21	Briefing complete

The statuses of appeals by Neldon Johnson and other insiders are described below:

Appeal #	Subject of Appeal	Status	Date
18-4119	Injunction, disgorgement, receiver	District court affirmed	6/2/20
18-4150	Combined with 18-4119	District court affirmed	6/2/20
19-4066	Discovery order, motion to dismiss	Appeal dismissed	6/24/19
19-4089	Inclusion of affiliates in receivership	Appeal dismissed	6/22/20
21-4015	Denial of motion to reconsider judgment	Briefing is complete	6/29/21
21-4080	Attorneys' fees on Glenda Johnson contempt	Opening brief filed	8/16/21

VI. DISMISSED LITIGATION

The Receiver has dismissed lawsuits he filed against Korry Ardell and Ryan Davies, without pursuing further litigation or settlements. 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 statuses of the 17 lawsuits filed by the Receiver that are still pending are described in the table below:

Name	Case No.	Type of Case	Status/Next Deadline
Clement, Jason	2:19-cv-00729	Commissions	Have settlement with Kinsey, Edde Ent., and SunCore. Have default certificate against Clement, will move for default judgment.
Frandsen, Hutchings	2:19-cv-00660	Shepard debts	Default certificate on Frandsen issued 8/2/21; will amend complaint to add estate of Hutchings (who is deceased).
Freeborn, Jacqueline	2:19-cv-00843	Insider	Expert discovery deadline 11/12/21
Heideman & Assoc.	2:19-cv-00854	Legal services	Discovery deadline 8/27/21
Jameson, Richard	2:19-cv-00822	Expert	Discovery deadline 8/23/21
Johnson, Glenda	2:19-cv-00625	Insider	Turnover order entered 8/5/21 for 4 properties. Receiver to amend

			complaint removing this cause of action. Discovery deadline 3/9/22.
Johnson, Jeron	2:19-cv-00799	Commissions	Filed for Chapter 7 bankruptcy.
Johnson, LaGrand	2:19-cv-00534	Insider	Deposition set for 8/30/21.
Johnson, Randale	2:19-cv-00532	Insider	Deposition set for 8/31/21.
King, Steven	2:19-cv-00706	Commissions	Motion deadline 1/3/22.
Nelson Snuffer	2:19-cv-00851	Legal services	Discovery deadline 5/18/22.
Newman, Ina	2:19-cv-00623	Insider	Settlement agreement reached, Receiver to seek approval.
Plaskolite, LLC	2:19-cv-00832	Supplier	Mediation did not succeed. Pretrial conference set for 12/9/21.
Shepard, Matthew	2:19-cv-00533	Insider	Deposition set for 9/1/21.
Snow, Stacy Curtis	2:19-cv-00757	Insider	Motion deadline 9/28/21.
Stewart, Raleigh	2:19-cv-00726	Commissions	Motion deadline 1/3/22.
Taylor, Christopher	2:19-cv-00816	Insider	Motion deadline 9/28/21.

VIII. CONCLUSION

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

/s/ Wayne Klein

Wayne Klein
Receiver

DATED this 24th day of August 2021.

PARR BROWN GEE & LOVELESS

/s/ Jeffery A. Balls

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CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the above **RECEIVER'S THIRD SPECIAL REPORT ON STATUS OF LITIGATION** was electronically filed with the Clerk of the Court through the CM/ECF system on August 24th, 2021, which sent notice of the electronic filing to all counsel of record and by mail to the following.

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R. Gregory Shepard
10672 Winter Haven Court
South Jordan, Utah 84095

/s/ Wendy V. Tuckett _____