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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 SIXTH SPECIAL
REPORT ON STATUS OF
SETTLEMENTS AND LITIGATION**

As of May 26, 2022

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 Sixth Special Report on Status of Litigation ("Report"), as of May 23, 2022.

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.

Subsequent to the Court granting the Receiver's motion to commence legal proceedings,³ 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 settled approximately 30 of these cases without the necessity of initiating litigation.

This Report summarizes the progress to date of the settlements and ongoing litigation. The most significant changes since the prior Litigation Status Report are: a) three additional settlements were approved, b) additional settlement payments have been received by the Receivership Estate, including \$41,405.28 in garnishment payments and \$92,325.12 paid in lieu of garnishment, c) another district court ruling was affirmed on appeal, and d) the 12 pending, unresolved cases have been reduced by two.

II. SETTLEMENTS

A. Approved Settlements. The Receiver has filed 15 motions for approval of settlement agreements, all of which have been approved. The statuses of these settlements are:

Settlement Agreements Paid in Full as of May 23, 2022			
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
Ayres, Evan	2:21-cv-00110-DN-PK	Dismissed	Paid in full
Becker, James	2:19-cv-00787-DN-PK	Dismissed	Paid in full
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

³Docket No. 673, filed May 24, 2019.

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	Paid in full
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
Freeborn, Jacqueline	2:19-cv-00843-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 dism.	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
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	Paid in full
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	Dismissed	Paid in full
Rowbotham, Robert	2:20-cv-00193-DN	Dismissed	Paid in full ⁴
Sikich, Mark	Settlement without litigation	None	Paid in full
Smith, Kelvin	2:19-cv-00680-DN-PK	Dismissed	Paid in full
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	Satisf. of Judg.	Paid in full
Williams, Lynette	2:19-cv-00696-DN-PK	Dismissed	Paid in full
Young, Carolyn	Settlement without litigation	None	Paid in full
Zeigler, Andrew	2:19-cv-00769-DN-PK	Dismissed	Paid in full
Zelevnik, Brian	Settlement without litigation	None	Paid in full

Settlement Agreements Paid in Full Since February 25, 2022

Name	Case No.	Case Status	Payment Status
Bennett, Amber	2:19-cv-00703-DN-PK	Satisf. of Judg.	Paid in full
Mooney, Thomas	2:19-cv-00717-DN-PK	Satisf. of Judg.	Paid in full

Settlement Agreements With Installment Payments Being Made

Name	Case No.	Case Status	Prior	Current
Aulds, Robert	2:19-cv-00192-DN-PK	Dismissed	41%	46%
Bell Energy	2:19-cv-00804-DN-PK	Dismissed	72%	72%
Black, Scott	2:19-cv-00678-DN-PK	Dismissed	38%	47%
Day, Thomas	2:19-cv-00692-DN-PK	Dismissed	45%	52%
Heideman & Assoc.	2:19-cv-00854-DN-PK	Dismissed	0%	17%

⁴Initial settlement amount paid in full. An additional \$7,000 has been paid against a stipulated judgment.

Kinsey, Ed	2:19-cv-00729-DN-PK	Dismissed	15%	16%
Newman, Kirk	2:19-cv-00694-DN-PK	Judgment	54%	66%
Newman, Ina	2:18-cv-00623-DN-PK	Dismissed	37%	43%
Shepard, Mark	2:19-cv-00803-DN-PK	Dismissed	42%	44%
Woodson, James	2:19-cv-00794-DN-PK	Judgment	46%	51%

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.
- b. Luke, Shane. Case No. 2:19-cv-00688-DN-PK. Luke has resumed making payments. He has paid \$15,500 toward the \$16,500 he agreed to pay, making his payments 94% complete.
- c. Bowers, Steven. Case No. 2:19-cv-00530-DN-PK. Bowers has failed to make any payment toward the \$19,800 he agreed to pay. The Receiver will initiate an action against Bowers for breach of the settlement agreement.
- d. Searcy, Richard. Searcy made his initial down payment in August 2021 but delayed making his required monthly payments. He began making monthly payments in December 2021 but has not yet made up the deficit. He has requested a lower settlement amount based on financial hardship. The Receiver requested documentation from Searcy about certain aspects of his hardship claims. Searcy has not yet provided those documents. Searcy has paid 11% of the total settlement amount.

III. SUMMARY JUDGMENTS TO COLLECT

The table below lists summary judgments granted by the Court, where there are no settlements or appeals. The Receiver filed a motion to assign these judgments to the United

States for collection.⁵ One of the judgments was fully satisfied after the motion to assign was filed. Documents reflecting the actual assignments will be filed in the six remaining cases.

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 ⁶
Kerr, Gracie & Kevin	2:19-cv-00768	4/19/21	\$40,944.70	\$5,771.52
King, Steven Lynn	2:19-cv-00706	11/9/21	\$22,108.05	\$3,909.79
Payne, Linda	2:19-cv-00791	6/22/21	\$32,737.50	\$8,283.04 ⁷
Scraggs, Joseph	2:19-cv-00727	4/15/21	\$9,852.75	\$1,338.89
Stewart, Raleigh	2:19-cv-00726	11/9/21	\$11,579.53	\$2,135.08
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 is coordinating with counsel for the United States in commencing collection on these judgments.

The full judgment amount against Thomas Mooney, previously on the list, was recovered.

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
Clement, Jason ⁸	2:19-cv00792	10/5/21	\$303,950.00	\$55,960.11
Frandsen, Jay D. ⁹	2:19-cv-00660	10/14/21	\$52,000.00	\$20,044.93
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
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

⁵Docket no. 1200, filed April 5, 2022. The Court granted the motion on May 31, 2022 (docket no. 1214), after the end of the reporting period.

⁶The Receiver collected \$104.52 on this judgment via garnishment proceedings.

⁷The full amount of this judgment was recovered via garnishment proceedings. A satisfaction of judgment was filed April 11, 2022.

⁸Clement was a co-defendant in a case with Edward Kinsey, Suncore, and Edde Enterprises. The other defendants have entered into a settlement agreement that was approved by the Court (which is listed above).

⁹The litigation against a co-defendant, Larry T. Hutchings, has been dismissed.

V. APPEALS

As of May 23, 2022, appeals by the seven defendants listed below were pending, all relating to the disgorgement of sales commissions. Six of these appeals, other than that of Trudy Shepherd, were consolidated for briefing and oral argument (which was held on May 19, 2022). A previously pending appeal, by Amber Bennett, was dismissed after she settled with the Receiver.

Appeals by Commission Recipients				
Name	Case No.	Appeal No.	Date of Appeal	Status
Armand, Jean	2:19-cv-00779	21-4071	5/27/21	Oral argument 5/19/22 ¹⁰
Finkes, Reinhold	2:19-cv-00761	21-4090	7/22/21	Oral argument 5/19/22 ¹¹
Hadderton, Carey	2:19-cv-00704	21-4077	6/10/21	Oral argument 5/19/22
Hamblin, Roger ¹²	2:19-cv-00783	21-4075	6/4/21	Oral argument 5/19/22
Howell, John	2:19-cv-00705	21-4076	6/10/21	Oral argument 5/19/22
Roe, Janet	2:19-cv-00719	21-4065	5/13/21	Oral argument 5/19/22
Shepherd, Trudy	2:19-cv-00695	21-4064	5/7/21	Submitted on Briefs 8/5/21 ¹³

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

Appeals by Insiders: Resolved			
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	District court affirmed	12/2/21
21-4080	Attorneys' fees: Glenda Johnson contempt	District court affirmed	3/2/22

¹⁰The Receiver has collected \$1,061.93 on this judgment via garnishment proceedings.

¹¹The Receiver has collected \$201.30 on this judgment via garnishment proceedings.

¹²A filing with the Tenth Circuit indicates that Mr. Hamblin died in January 2022.

¹³Trudy Shepherd deposited the amount of the judgment with the Receiver, to avoid garnishment proceedings, but is continuing her appeal.

VI. DISMISSED LITIGATION

The lawsuit against Larry Hutchings was dismissed on March 28, 2022 because he was deceased and no assets were found. The Receiver has a default judgment against his co-defendant, Jay Frandsen.

VII. OTHER LITIGATION

The ten lawsuits filed by the Receiver that are still pending fall into three categories: cases on hold for various reasons (2), cases where summary judgment motions are pending (4), and cases with upcoming trial dates (4). These cases are described in the tables below:

Litigation Matters on Hold			
Name	Case No.	Type of Case	Status/Next Deadline
Jameson, Richard	2:19-cv-00822	Expert	Case stayed pending results of IRS proceedings.
Johnson, Jeron	2:19-cv-00799	Commissions	Automatic stay; Defendant filed for chapter 7 bankruptcy;

Summary Judgment Motions Pending			
Name	Case No.	Type of Case	Status/Next Deadline
Johnson, LaGrand	2:19-cv-00534	Insider	Summary judgment briefing was completed 5/26/22. Trial set for 8/22/22.
Johnson, Randale	2:19-cv-00532	Insider	Summary judgment briefing was completed 5/20/22. Trial set for 9/26/22.
Plaskolite, LLC	2:19-cv-00832	Supplier	Plaskolite produced some of the required privileged documents. Cross motions for summary judgment are pending. Trial set for 9/13/22.
Shepard, Matthew	2:19-cv-00533	Insider	Summary judgment briefing was completed 5/20/22. Trial set for 8/22/22.

Cases With Upcoming Trial Dates			
Name	Case No.	Type of Case	Status/Next Deadline
Johnson, Glenda	2:19-cv-00625	Insider	Expert deadline is 10/6/22. Trial set for 4/17/23.

Nelson Snuffer	2:19-cv-00851	Legal services	Expert deadline is 11/7/22. Trial set for 7/11/23.
Snow, Stacy Curtis	2:19-cv-00757	Insider	Receiver denied summary judgment 2/25/22. Trial set for 6/27/22.
Taylor, Christopher	2:19-cv-00816	Insider	Receiver denied summary judgment 2/25/22. Trial set for 6/27/22.

VIII. CONCLUSION

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

/s/ Wayne Klein

Wayne Klein
Receiver

DATED this 3rd day of June 2022.

PARR BROWN GEE & LOVELESS

/s/ Jeffery A. Balls

Jonathan O. Hafen
Jeffery A. Balls
Attorneys for Receiver

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the above **RECEIVER'S SIXTH SPECIAL REPORT ON STATUS OF LITIGATION** was electronically filed with the Clerk of the Court through the CM/ECF system on June 6, 2022, which sent notice of the electronic filing to all counsel of record and sent by mail to the following.

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

/s/ Wendy V. Tuckett