

Jonathan O. Hafen (6096) (jhafen@parrbrown.com)

Jeffery A. Balls (12437) (jballs@parrbrown.com)

Cynthia D. Love (14703) (clove@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 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.; LTBI,
LLC; R. GREGORY SHEPARD; NELDON
JOHNSON; and ROGER FREEBORN,

Defendants.

**RECEIVER'S FIFTEENTH
QUARTERLY STATUS REPORT**

*For the period April 1, 2022 to June 30,
2022*

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

District Judge David Nuffer

R. Wayne Klein, the Court-Appointed Receiver (the "Receiver") in this matter, hereby submits this Fifteenth Quarterly Status Report ("Report") for the period from April 1, 2022 to June 30, 2022 ("Reporting Period").

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

There has been a notable slowdown in activity relating to the Receivership as the number of properties remaining to be sold is reduced and litigation matters are resolved. Material developments during the Reporting Period involved disposition of real estate, litigation and appeal activity, and recoveries. Regarding real estate, one property sale closed and an offer was received on another property. In the litigation matters, trial preparation was completed for a combined trial, summary judgment briefing was completed on three matters, and discovery was furthered in two other matters. The Tenth Circuit heard argument on the appeal by commission recipients and rejected Glenda Johnson's motion for reconsideration. A significant settlement was reached and funds were recovered on judgments, including successful garnishments.

II. ASSET RECOVERY, SETTLEMENTS

A. Settlements. The Receiver's fifteenth motion to approve a settlement (this one with Heideman & Associates) was approved by the Court.⁴ During the quarter, the Receiver received \$25,300.34 in installment payments on previous settlement agreements.

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. 1205](#), filed April 14, 2022.

B. Garnishments. The Receiver received garnishment payments from two additional banks, totaling \$40,238.83. The garnishment recovery against Steven Payne represented the full amount of the judgment and the Receiver filed a satisfaction of judgment. Expected objections by the garnishees were not filed, so the Receiver will not hold these funds in reserve.

C. Assignment of Judgments. The Court granted the Receiver's motion to assign to the United States certain judgments he has obtained.⁵ The Receiver is working with counsel for the United States in preparing an assignment agreement and notices of assignment that will be filed in each case where a judgment will be assigned.

III. REAL PROPERTY SALES

A. Status of Receivership Properties. Six real properties were held by the Receivership Estate at the beginning of the Reporting Period, three of which are subject to a purchase option. The sale of one of the three remaining properties closed during the quarter and the Court approved the Receiver's motion to sell a second property at auction. The status of each property is discussed below:

1. **Sold: Five Acres with Abandoned Home**. This property, recovered from Glenda Johnson, appraised at \$55,000 (not counting the value of subsequently confirmed water rights). The home was listed for sale at \$80,000 and sold for \$80,000. The sale closed on May 19, 2022 and the Receiver filed a Notice of Sale Results.⁶

2. **Offer Received: Oasis Warehouse**. This property has been the subject of two failed offers. The Receiver lowered the asking price from \$325,000 to \$275,000 and

⁵ Docket no. 1214, filed May 31, 2022.

⁶ Docket no. 1215, filed June 3, 2022.

received an offer of \$215,000. The Court approved holding an auction of this property, to see if any higher bids are received.⁷ The Receiver has set an auction date of August 4, 2022 and has published notice of the auction. The Receiver believes at least three additional bidders will participate in the auction.

3. **Purchase Option: 1,000 Acres.** The Court previously approved an agreement to grant a purchase option for three parcels, containing 1,000 acres, to 8minute Energy for photovoltaic solar development.⁸ The purchase option expires in 2025.

4. **For Sale: Well Site Next to Original Tower Site.** Neldon Johnson had previously divided the original 80-acre solar tower site into a 75.6-acre site containing the original towers (which property was titled in the name of IAS and sold previously) and a 4.6-acre site with a well and ten acre-feet of water (which was titled in the name of Glenda Johnson). The appraiser valued the 4.6-acre site at \$37,000. However, in light of the value of the water, the Receiver has concurred with the broker's recommendation to list the property and associated water rights for sale at \$100,000. The water is severable from the property and it is possible the water will be sold separately from the land. There have been no serious offers for the property.

B. **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.

⁷ Docket no. 1219, filed June 14, 2022.

⁸ Docket no. 1117, filed April 20, 2021.

IV. LITIGATION

A. Special Report on Status of Litigation. The Receiver filed a sixth special report on the status of litigation,⁹ summarizing the status of settlements, summary judgment motions, default judgments, and ongoing litigation. The Receiver will continue filing similar reports every three months so long as significant litigation remains.

B. Active Recovery Litigation. There were ten lawsuits filed by the Receiver pending at the beginning of the Reporting Period.

1. Resolved. Two of these cases were recently resolved. The recovery action against Jeron Johnson was on hold, based on his bankruptcy filing. He has now been granted a discharge, so the Receiver will dismiss the action against him. The Court recently granted summary judgment against Matthew Shepard and closed that case.¹⁰

2. On Hold. The Receiver's recovery case against Richard Jameson is on hold, pending the results of proceedings before the federal court of claims. The Receiver recently learned that Jameson has died and does not yet know the effect of his death on that proceeding.

3. Summary Judgment Motions. Summary judgment motions are pending in three cases (LaGrand Johnson, Randale Johnson, and Plaskolite). Although all these cases have been reassigned to other judges for trial, the Receiver believes trials will not be set for these cases until rulings are issued in the pending summary judgment motions.

⁹ Docket no. 1215, filed June 6, 2022.

¹⁰ This ruling was issued shortly after the end of the Reporting Period. Case no. 2:19-cv-533, docket no. 53, filed July 5, 2022.

4. Taylor/Snow Trial. These cases, which had been consolidated for trial purposes, have been reassigned to Judge Barlow. Trial has been set for January 2023.

5. 2023 Trial Dates. The remaining two cases, against Nelson Snuffer and Glenda Johnson, have trial dates set in 2023.

C. Criminal Contempt Charges. Trial on the criminal contempt charges against Neldon Johnson and Glenda Johnson has been again postponed. It is now set for September 26, 2022.¹¹

D. Appeals. Seven appeals were pending at the beginning of the Reporting Period, all of which are the responsibility of the Receiver.

1. Glenda Johnson: On March 2, 2022, the Tenth Circuit had affirmed the district court order awarding attorneys' fees and costs for Glenda Johnson's third contempt finding, relating to her improper filings of property liens. (#21-4080). Glenda Johnson sought reconsideration of this ruling, which was denied on April 25, 2022.

2. Commission Recipient Appeals. Seven commission recipients are still part of the appeals of summary judgment orders entered against them. The appeal filed by Trudy (Shepherd) Sajec (#21-4064) is being pursued pro se.¹² The Tenth Circuit has determined to consider her appeal solely on the briefing, which has been completed. Ms. Sajec has paid the judgment, to avoid the Receiver's garnishment efforts.

Oral argument on the other six (combined) appeals was heard on May 19, 2022.

These appellants are Janet Roe (#21-4065), Reinhold Finkes (#21-4090), Jean Armand

¹¹ 2:21-cr-513 (D. Utah).

¹² Trudy (Shepherd) Sajec is Glenda Johnson's daughter.

(#21-4071), Roger Hamblin/Digital Wave Energy (#21-4075),¹³ John Howell/Rocking H (#21-4076), and Carey Hadderton (#21-4077).

V. 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	\$75,057.52
Settlement payments	\$25,300.34
Garnishments	\$40,238.83
Bank interest	\$7.10
Total	\$140,603.79

Expenditures	
Type of Expenditure	Amount
Real estate: utilities	\$528.05
Real estate: notice, title insurance	\$888.60
Legal: mediation fee	\$1,264.00
Total	\$2,680.65

The Receiver's fee application for work performed during the fourth quarter of 2021 was approved in April.¹⁴ Payments totaling \$155,730.20 were paid to the Receiver, his counsel, and the forensic accountants. The Receiver's fee application for work performed in the first quarter of 2022 was approved on May 13, 2022.¹⁵ Payments totaling \$138,382.12 were paid on June 21.

B. Bank Account Balances. The following table shows the balances of funds in the Receivership bank accounts at Wells Fargo Bank as of June 30, 2022:

¹³ Roger Hamblin died in January; Nelson Snuffer proceeded with the appeal on behalf of Digital Wave Energy.

¹⁴ Docket no. 1206, filed April 18, 2022.

¹⁵ Docket no. 1221, filed June 21, 2022.

Bank Account Balances	
Account	Amount
Checking account	\$31,804.39
High yield savings ¹⁶	\$356,992.83
Total	\$388,797.22

C. Tax Returns. The Receiver provided significant assistance to Berkeley Research Group for preparation of 2021 tax returns. This included calculation of the values of settlements achieved and accounting for the net proceeds from property sales. The Receiver obtained an extension for the filing of the tax returns, which are expected to be finalized and filed in August.

VIII. NEXT STEPS

The significant next steps in the Receivership will be:

A. Sell Real Properties. The Receiver will conduct an auction of the Oasis warehouse and continue marketing the single unsold property still in the Receivership Estate.

B. Ongoing Litigation. Litigation will continue in the cases actively being litigated. The Receiver also may be asked to provide information or documents relating to the criminal charges filed against Neldon and Glenda Johnson.

C. Collection on, Assignment of, Judgments. The Receiver will continue his efforts to collect on judgments already obtained and work with the United States to finalize the assignments of judgments approved by the Court.

IX. CONCLUSION

Material progress, described above, continues to be made in accomplishing the objectives of the Receivership. Activities have slowed considerably as the number of tasks remaining is

¹⁶ This amount includes \$100,000 that a turnover order directed be preserved pending resolution of the Receiver's separate lawsuit against Glenda Johnson.

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


Wayne Klein
Receiver

DATED this 28th day of July 2022.

PARR BROWN GEE & LOVELESS

/s/ Jeffery A. Balls
Jonathan O. Hafen
Jeffery A. Balls
Cynthia Love
Attorneys for Receiver

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the above **RECEIVER'S FIFTEENTH QUARTERLY STATUS REPORT** was electronically filed with the Clerk of the Court through the CM/ECF system on July 28, 2022, which sent notice of the electronic filing to all counsel of record. Copies were also mailed to the following:

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

Neldon Johnson
PO Box 95332
South Jordan, UT 84095

Pro se Defendants

/s/ Wendy V. Tuckett_____