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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 TWENTY-THIRD
QUARTERLY STATUS REPORT

For the period April 1, 2024 to June 30, 2024

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 Twenty-Third Quarterly Status Report ("Report") for the period from April 1, 2024 to June 30, 2024 ("Reporting Period").

I. INTRODUCTION AND BACKGROUND

The Court's October 31, 2018 *Receivership Order* ("Order"),¹ created the Receivership Estate. The Receivership Estate was expanded in 2019 to include 13 additional affiliated entities ("Affiliated Entities").²

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

During the Reporting Period, the only activities in the main Receivership case were administrative matters. There were, however, significant developments in ancillary cases.

II. ASSET RECOVERY, SETTLEMENTS

A. Settlements. There were no new settlements reached during the Reporting Period.

B. Settlement Recoveries. During the quarter, the Receiver received \$53,200.00 in payments from other settlements.

C. Status of Settlement Agreements. To date, 81 settlement agreements have been satisfied in full and the underlying lawsuits have been dismissed or notices were filed that the judgments were satisfied. The table below shows the status of settlement agreements where the debtors are making (or have promised) payments to the Receiver. Full payment was completed in one settlement agreement during the quarter.

Settlement Agreements Allowing Installment Payments				
Name	Case No.	Case Status	Prior	Current
Heideman & Assoc.	2:19-cv-00854-DN-PK	Dismissed	67%	83%
Kinsey, Ed	2:19-cv-00729-DN-PK	Dismissed	53%	100%
Newman, Ina	2:18-cv-00623-DN-PK	Dismissed	89%	96%
Taylor, Christopher ³	2:19-cv-00816-DN-PK	Dismissed	36%	36%

III. LITIGATION

A. New Collection Litigation. The Receiver filed two new recovery actions as part of his efforts to collect on judgments previously entered by the Court:

1. Roger Hamblin. In 2021, the Court granted the Receiver summary judgment against Roger Hamblin and his company, Digital Wave Energy, for \$98,070.49 plus

³ During the quarter, Mr. Taylor filed for bankruptcy. The status of the Receiver's actions against Taylor is described below.

prejudgment interest of \$14,011.99. Hamblin died during the pendency of the appeal that affirmed the judgment against him. After entry of the judgment, one of Hamblin's trusts sold real property, and deposited \$500,000 into the trust's bank account.⁴ Shortly after the Receiver issued a writ of garnishment against the bank, Hamblin's wife withdrew \$499,000 from the trust bank account. Four months later, Hamblin's wife (Kristine) also transferred real property owned by one of Hamblin's trusts to a trust controlled by Kristine Hamblin. The Receiver filed suit on June 24, 2024 against Kristine Hamblin as trustee of three trusts and against Hamblin's estate. The suit seeks to recover assets that Hamblin controlled in those trusts.⁵

2. Becky Johnson. In 2021, the Court granted the Receiver summary judgment against Randale Johnson for \$200,000.00. The Receiver's settlement agreement with the trustee of Randale Johnson's bankruptcy estate gave the Receiver rights to pursue an action to avoid voidable transfers of real property from Randale Johnson to his former wife, Becky Johnson. The Receiver filed suit against Becky Johnson on June 21, 2024 alleging that two weeks before the Court granted judgment to the Receiver Randale Johnson transferred his one-half interest in real estate to Becky Johnson. The lawsuit alleges Randale Johnson's real property transfer was an avoidable transfer.⁶

⁴ Virtually all of Hamblin's significant assets were held in trusts he created.

⁵ Case no. 2:24-cv-00452-DN-DBP.

⁶ Case no. 2:24-cv-00450-DN.

B. Bankruptcy Court Litigation:

1. Randale Johnson. Randale Johnson filed a chapter 7 petition on August 16, 2023.⁷ On November 9, 2023, the Receiver filed an adversary complaint in bankruptcy court seeking a determination that the \$200,000.00 judgment granted by this Court and the Receiver's claims for recovery of an additional \$464,467.80 are not dischargeable.⁸ Discharge was otherwise granted on the bankruptcy. The bankruptcy court has entered a scheduling order for the adversary proceeding, with a final pretrial conference set for November 5, 2024. Two of Randale Johnson's attorneys in the adversary proceeding have withdrawn and he now is proceeding pro se.

2. Christopher Taylor. In a January 2, 2023 settlement, Christopher Taylor agreed to pay \$73,000.00 to the Receivership to avoid a trial that was set to begin later that month. After making an initial \$25,000.00 payment, Taylor made only five monthly payments over the ensuing 16 months. On May 29, 2024, he filed a Chapter 13 bankruptcy.⁹ Taylor's bankruptcy plan proposes to pay \$1,570 as satisfaction for all his creditors' claims—including the Receivership Estate—despite owning a \$500,000.00 home that has no liens. The Receiver will question Taylor at the creditors' hearing to be held in July and intends to challenge his bankruptcy filing.

C. Recovery Litigation. Three recovery lawsuits filed by the Receiver are still active.

1. Plaskolite. On June 7, 2024, the Court denied Plaskolite's motion for summary judgment. The ruling denied various legal defenses asserted by Plaskolite and identified

⁷ Bankruptcy case no. 23-23489.

⁸ Adv. Proc. No. 23-02104.

⁹ Bankruptcy case no. 24-22585.

material facts that are established for purposes of trial. The Receiver believes this ruling will substantially narrow trial on this matter. A summary judgment motion filed by the Receiver is still pending.

2. Glenda Johnson. On May 7, 2024, the Court brought to the Receiver's attention that Glenda Johnson had died. The Receiver filed a status report describing his intent to move forward with his action against Mrs. Johnson's estate.¹⁰ Neldon Johnson has agreed to be appointed as personal representative for Glenda Johnson and the Receiver has filed a motion in state court for that appointment. When that personal representative appointment is confirmed, the Receiver will grant Neldon Johnson thirty days to respond to the Receiver's motion for partial summary judgment against Glenda Johnson.

3. Nelson Snuffer. The Receiver's lawsuit against the Nelson Snuffer law firm is moving steadily towards trial. Both the Receiver and Nelson Snuffer provided reports by their various experts in June. Rebuttal expert reports are due August 16, with expert depositions to be concluded by September 16. The deadline for dispositive motions is October 16, 2024. Settlement talks have not been fruitful.

D. Criminal Contempt Case. The indictment against Glenda Johnson was dismissed on May 3, 2024 due to her death. Neldon Johnson's trial on criminal contempt charges was again postponed, this time to December 2, 2024. The stated reasons for the most recent postponement were ongoing plea negotiations and Mr. Johnson's health problems.¹¹

¹⁰ Case no. 2:19-cv-00625; docket no. 64, filed May 17, 2024.

¹¹ 2:21-cr-513.

E. Lawsuits Filed by Neldon Johnson. The two lawsuits filed by Neldon Johnson against U.S. government agencies and officials, before appointment of the Receiver, have been dismissed:

1. State Court Injunctive Action. Johnson filed a lawsuit in Utah's Fourth District Court on October 16, 2018, naming the Internal Revenue Service, the U.S. Department of Justice, and Judge Nuffer as defendants. The United States removed the action to federal court on October 31, 2018 and filed a motion to dismiss the lawsuit.¹² On March 29, 2024, Circuit Judge Tymkovich, who presided over that case, affirmed Magistrate Judge Romero's Report and Recommendation and granted the United States' motion to dismiss.¹³ No appeal was filed, and that matter is now closed.

2. Federal Court Injunctive Action. Johnson filed a lawsuit in federal court against the Department of Justice, the Internal Revenue Service, and Judge Nuffer on September 20, 2018.¹⁴ On May 23, 2024, Circuit Judge Tymkovich, who presided over the case also, dismissed the action for lack of subject matter jurisdiction. Judge Tymkovich ruled that *Bivens* claims cannot be asserted against the United States, federal agencies, or federal officials in their official capacities and that sovereign immunity had not been waived.¹⁵ No appeal was filed, and that matter is now closed.

¹² Case no. 4:18-cv-0073. The dismissal motion was stayed for a time by the litigation stay of the Order.

¹³ *Id.*, docket no. 37, filed March 29, 2024.

¹⁴ Case no. 4:18-cv-062.

¹⁵ *Id.* docket no. 30, filed May 23, 2024.

IV. REAL PROPERTY HOLDINGS

The Receivership Estate now holds only the three contiguous properties that are subject to a purchase option. Option payments are current.

V. FINANCIAL OPERATIONS OF THE RECEIVERSHIP ESTATE

A. Receipts and Disbursements. The table below summarizes the revenue and expenditures of the Receivership Estate during the quarter:

Category	Revenue	Expenditures
Settlement payments	\$53,200.00	
Interest earnings	\$12,132.44	
Tax preparation, filing		\$531.85
Storage unit, operating		\$399.00
Expert witness fees		\$8,690.00
Total	\$65,332.44	\$9,620.85

The fee application for work performed during the first quarter of 2024 was approved.¹⁶ Payments totaling \$83,165.91 were paid to the Receiver, his counsel, and forensic accountants.

B. Bank Account Balances. The balances of funds in the Receivership accounts at Wells Fargo Bank and Wells Fargo Advisors as of June 30, 2024 were:

Account Balances	
Account	Amount
Checking account	\$5,885.77
Bank savings account	\$14,936.49
Money market fund	\$944,509.56
Total	\$965,331.82

C. Prior Distributions to the U.S. Treasury. The Receiver has distributed \$9,000,000.00 to the U.S. Treasury to date. The most recent distribution was December 20, 2021. The amount the Receiver is retaining in the Receivership Estate is to cover potential litigation expenses.

¹⁶ Docket no. 1274, filed June 17, 2024.

VI. NEXT STEPS

The remaining tasks for the Receivership are:

A. Recovery Litigation. Litigation will continue in: (i) the three previously filed recovery cases, (ii) the two newly filed fraudulent transfer cases, and (iii) bankruptcy court to litigate claims against Randale Johnson and Christopher Taylor.

B. Managing Remaining Properties. The Receiver will continue managing the three properties that are subject to the purchase option, including paying property taxes and ensuring collection of the option payments.

VII. CONCLUSION

The Receiver continues making progress in accomplishing the objectives of the Receivership Estate and looks forward to concluding his responsibilities when the remaining tasks—litigating remaining cases and selling remaining real properties—have been accomplished.

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

/s/ Wayne Klein

Wayne Klein
Receiver

DATED this 9th day of July 2024.

PARR BROWN GEE & LOVELESS

/s/ Jeffery A. Balls

Jonathan O. Hafen
Jeffery A. Balls
Attorneys for Receiver

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that service of the above RECEIVER'S TWENTY-THIRD QUARTERLY STATUS REPORT was electronically filed with the Clerk of the Court through the CM/ECF system on July 9, 2024, which sent notice of the electronic filing to all counsel of record. A copy was also mailed to the following:

Neldon Johnson
1309 North 550 West
Pleasant Grove, Utah 84062
Pro se Defendant

/s/ Wendy V. Tuckett