

Jonathan O. Hafen (6096) ([jhafen@parrbrown.com](mailto:jhafen@parrbrown.com))  
Jeffery A. Balls (12437) ([jballs@parrbrown.com](mailto:jballs@parrbrown.com))  
PARR BROWN GEE & LOVELESS, P.C.  
101 South 200 East, Suite 700  
Salt Lake City, Utah 84111  
Telephone: (801) 532-7840

*Attorneys for Court-Appointed Receiver Wayne Klein*

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UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

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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-FIRST  
MOTION FOR APPROVAL TO  
CONSUMMATE SETTLEMENT  
WITH RANDALE JOHNSON

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

District Judge David Nuffer  
Magistrate Judge Daphne A. Oberg

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R. Wayne Klein, the court-appointed receiver (the "Receiver") of the Receivership Entities and the assets of Neldon Johnson and R. Gregory Shepard, hereby submits this twenty-first motion for approval to consummate settlement with Randale Johnson. In support hereof, the Receiver states as follows:

BACKGROUND AND ANALYSIS

1. On October 31, 2018, the Receivership Estate was created with the entry of the Receivership Order (the "Order").<sup>1</sup> The Order authorizes and empowers the Receiver to, among

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<sup>1</sup> Docket No. 490. A Corrected Order was filed the next day on November 1, 2018. See Docket No. 491.

other things, investigate, prosecute, and compromise actions to recover Receivership Property.<sup>2</sup>

On May 24, 2019, the court granted the Receiver leave to commence litigation against designated categories of persons.<sup>3</sup>

2. The court has granted twenty prior motions by the Receiver seeking approval to consummate settlements.

3. The Receiver has entered into an additional settlement agreement ("Settlement Agreement") with Randale Johnson.

4. The Receiver originally filed suit against Randale Johnson on July 26, 2019. On March 16, 2023, the court awarded the Receiver a judgment of \$200,000.00 against Randale Johnson and ruled that another \$464,467.80 in transfers to Randale Johnson were "actually fraudulent," but allowing Randale Johnson to demonstrate at trial that he took the transfers in good faith and the Receivership Entities received reasonably equivalent value for the transfers. The Receiver dismissed additional claims against Randale Johnson for recovery of wages and reimbursements. Trial on the remaining claims was set to begin September 15, 2023.

5. On August 16, 2023, Randale Johnson filed a Chapter 7 bankruptcy petition ("Petition"),<sup>4</sup> preventing the scheduled trial from going forward. The Petition identified \$27,366.00 in assets, \$22,000.00 of which was a travel trailer that was subject to a lien. The Petition listed \$438,049.00 in liabilities. These included a \$23,810.00 secured claim for the

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<sup>2</sup> *Id.* at ¶ 59.

<sup>3</sup> Docket No. 673, filed May 24, 2019.

<sup>4</sup> Case no. 23-23489 (Bankr. Utah).

travel trailer, \$138,577.00 in mortgage debt,<sup>5</sup> and \$200,000.00 owed to the Receivership Estate.<sup>6</sup> The Petition disclosed that Randale Johnson had interests in bank accounts and noted they were subject to an asset freeze order in this action.

6. To resolve uncertainty about which estate has rights to the funds in Randale Johnson's bank accounts and to obtain undisputed rights to pursue the Fraudulent Transfer Claim, the Receiver negotiated a settlement agreement with the Bankruptcy Estate. That settlement, approved by this Court on December 13, 2023 (ECF No. 1266), brought \$8,515.60 into the receivership estate. The Receiver continued pursuing his adversary proceeding against Randale Johnson in bankruptcy court.

7. On January 9, 2025, Judge Hunt referred the adversary proceeding for mediation. In a mediation held on February 26, 2025, Judge Thurman urged the Receiver to focus on the financial aspects of a settlement and put less focus on information the Receiver was seeking from Randale Johnson regarding assets Neldon Johnson might be hiding. Judge Thurman successfully mediated a settlement that will bring funds into the Receivership Estate and provide sanctions in the event the Receiver later discovers that Randale Johnson provided false or incomplete financial information to the Receiver.

8. The Settlement Agreement (a) was negotiated at arm's length and in good faith by the Receiver and Randale Johnson—and achieved through the mediation efforts of Judge Thurman, (b) will avoid the expense of the Receiver and his counsel litigating the adversary

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<sup>5</sup> The mortgage debt is for the home that was jointly owned by Randale Johnson and his former wife, Becky Johnson. Randale Johnson transferred his interest in the home to Becky Johnson in 2021—after the Receiver sued Randale Johnson. Title to the home is in the name of Becky Johnson.

<sup>6</sup> The Petition fails to list as a liability the \$464,467.80 claim by the Receiver that was going to be tried in September. The other liabilities are mostly credit card debt.

proceeding, (c) will result in the collection of significant funds for the benefit of the Receivership Estate and (d) provides sanctions in the event Randale Johnson fails to comply with the settlement agreement.

9. If approved by the Court, this agreement will bring \$50,000.00 into the Receivership Estate over a three-year period. Randale Johnson has made an initial payment of \$5,000.00. He will make three additional \$5,000.00 payments every six months, followed by three \$10,000.00 payments every six months. The last payment is due March 15, 2028.

10. The agreement contains additional terms that the Receiver believes will advance his work in this matter, including: (a) Randale Johnson has admitted that the Court has ruled that he received \$200,000.00 in fraudulent transfers, (b) Randale Johnson signed a confession of judgment in the amount of \$200,000.00 that the Receiver can file with the Court in the event Randale Johnson does not timely pay amounts required in the settlement or a court finds that Randale Johnson has provided materially false information about his knowledge of assets, and (c) Randale Johnson will cooperate with efforts of the Receiver and the United States to identify and recover assets that belong to or have belonged to Glenda Johnson or Neldon Johnson. Randale Johnson provided a notarized declaration regarding his knowledge of assets of Neldon and Glenda Johnson.

11. The Receiver has filed a separate action against Randale Johnson's former wife, Becky Johnson, seeking to recover assets Randale Johnson transferred to her after the Receiver filed suit against Randale Johnson. That litigation (2:24-cv-00450) is still pending.

12. The terms of the settlement have been approved by counsel for the United States.

13. Based on the above, the Receiver believes the Settlement Agreement with Randale Johnson is in the best interest of the Receivership Estate.<sup>7</sup>

CONCLUSION

The Receiver moves the court to approve, and authorize the Receiver to finalize, the Settlement Agreement. The Receiver will also seek approval of this settlement with the bankruptcy court. After judicial approval is received, the Receiver intends to dismiss the adversary proceeding in the bankruptcy court.

A proposed order is attached.

DATED this 18th day of March, 2025.

PARR BROWN GEE & LOVELESS, P.C.

/s/ Jeffery A. Balls

Jonathan O. Hafen

Jeffery A. Balls

*Attorneys for R. Wayne Klein, Receiver*

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<sup>7</sup> "In evaluating proposed settlements in equity receiverships . . . the Court should inquire whether the action to be taken is 'in the best interest of the receivership.'" *SEC v. Am. Pension Servs., Inc.*, No. 214CV00309RJSDBP, 2015 WL 12860498, at \*10 (D. Utah Dec. 23, 2015) (quoting *SEC v. Capital Consultants, LLC*, No. Civ. 00-1290-KI, 2002 WL 31470399 (D. Ore. March 8, 2002)).

CERTIFICATE OF SERVICE

I hereby certify that the above RECEIVER'S TWENTY-FIRST MOTION FOR APPROVAL TO CONSUMMATE SETTLEMENT was filed with the court on this 18th day of March, 2025 and served via ECF on all parties who have requested notice in this case. Copies were also sent by mail to:

Neldon Johnson  
1309 North 550 West  
Pleasant Grove, Utah 84062

/s/ Wendy V. Tuckett