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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

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UNITED STATES OF AMERICA,

Plaintiff,

v.

RAPOWER-3, LLC, et al.,

Defendants.

**ORDER GRANTING MOTION TO  
COMMENCE LEGAL PROCEEDINGS**

Case No. 2:15-cv-00828-DN

District Judge David Nuffer

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R. Wayne Klein, the court-appointed receiver (“Receiver”), filed a motion (the “Motion”) for permission to commence legal proceedings.<sup>1</sup> Nonparties XSun Energy LLC, Solco I LLC, Solstice LLC, Randale Johnson, Glenda Johnson, and LeGrand Johnson (collectively, the “Nonparties”) oppose the Motion because, according to them, the Motion:

1. is an improper ex parte communication;
2. denies others of due process; and
3. offends the Utah Standards of Professionalism and Civility.<sup>2</sup>

For the reasons stated in the Receiver’s reply memorandum,<sup>3</sup> the Nonparties are wrong. The Motion is and does none of these things.

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<sup>1</sup> Receiver’s Motion for Leave to Commence Legal Proceedings, [docket no. 628](#), filed April 30, 2019; *see* Opposition to Motion for Leave to Commence Legal Proceedings (“Opposition”), [docket no. 643](#), filed May 8, 2019; Receiver’s Reply in Support of His Motion to Commence Legal Proceedings (“Reply”), [docket no. 659](#), filed May 17, 2019.

<sup>2</sup> *See* Opposition, *supra* note 1.

<sup>3</sup> Reply, *supra* note 1.

Based on the arguments of the parties and the record in this case, and for good cause appearing,

IT IS HEREBY ORDERED that the Motion<sup>4</sup> is GRANTED.

IT IS FURTHER HEREBY ORDERED as follows:

1. The Receiver is granted leave to commence litigation against:
  - a. Law firms who were paid for legal work that did not result in reasonably equivalent value for the Receivership Entities or Affiliated Entities;<sup>5</sup>
  - b. Persons, including family members and other insiders, who received monies or assets from Receivership Defendants, Receivership Entities, or Affiliated Entities, including property transfers for little or no consideration;
  - c. Law firms and others who are holding funds belonging to Receivership Entities or Affiliated Entities;
  - d. Credit card issuers who were paid using funds from Receivership Entities or Affiliated Entities for charges made for the personal benefit of individuals or entities that are not Receivership Entities;
  - e. Charitable organizations receiving donations from Receivership Entities or Affiliated Entities;
  - f. Salespersons who were paid commissions for promoting the tax scheme at issue in this case or soliciting purchasers of lenses;
  - g. Officers and directors of Receivership Entities or Affiliated Entities;

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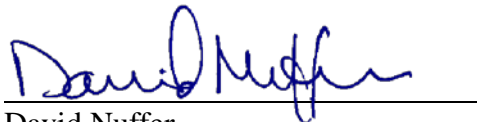
<sup>4</sup> [Docket no. 628](#), filed April 30, 2019.

<sup>5</sup> The terms “Receivership Defendants,” “Receivership Entities,” and “Affiliated Entities” have the same meaning in this order as they do in the Memorandum Decision and Order on Receiver’s Motion to Include Affiliates and Subsidiaries in Receivership, [docket no. 636](#), filed May 3, 2019.

- h. Recipients of stock, warrants, or other securities of International Automated Systems Inc. (“IAS”);
  - i. Diana Shepard and her trust;
  - j. Former employees of IAS who were accused of having embezzled funds;
  - k. Affiliates and subsidiaries of Receivership Defendants, which are not Receivership Entities or Affiliated Entities, but which received monies or assets from Receivership Entities or Affiliated Entities for little or no consideration;
  - l. Attorneys, insiders, and others who are discovered to have taken an active role in assisting the scheme at issue in this case; and
  - m. Insurance companies, to the extent that insurance policies are identified.
2. The Receiver must consult with counsel for the United States regarding each lawsuit filed under the Corrected Receivership Order<sup>6</sup> before filing any such lawsuit.
3. It is necessary for the efficient administration of justice that any lawsuit filed by the Receiver in the U.S. District Court for the District of Utah under the Corrected Receivership Order<sup>7</sup> be assigned to the same judge, to the extent possible. Accordingly, for each such lawsuit that the Receiver may file, the Receiver shall promptly file a motion and proposed order in this case in accordance with DUCivR 83-2(g).

Signed May 24, 2019.

BY THE COURT:



David Nuffer  
United States District Judge

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<sup>6</sup> Docket no. 491, filed November 1, 2018.

<sup>7</sup> *Id.*