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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 THIRD QUARTERLY  
STATUS REPORT**

*For the period April 1, 2019 to June 30,  
2019*

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

District Judge David Nuffer

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R. Wayne Klein, the Court-Appointed Receiver (the "Receiver") of RaPower-3, LLC ("RaPower"), International Automated Systems, Inc. ("IAS"), and LTB1, LLC ("LTB1"), as well as 13 subsidiaries and affiliates (collectively, the "Receivership Entities"), and the assets of Neldon Johnson ("Johnson") and R. Gregory Shepard ("Shepard") (collectively "Receivership Defendants"), hereby submits this Third Quarterly Status Report ("Report") for the period from April 1, 2019 to June 30, 2019 ("Reporting Period").

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## I. INTRODUCTION AND BACKGROUND

The Receivership Estate was created on October 31, 2018 with entry of the Court's *Receivership Order* ("Order"),<sup>1</sup> which, among other things, appointed the Receiver and continued a previously-entered asset freeze.<sup>2</sup> Other significant court filings preceded the Order. The Receivership Defendants filed two *Notices of Appeal* of the Order, which are pending.<sup>3</sup>

The Receiver's efforts during the quarter have focused on expanding the Receivership Estate to include subsidiaries and affiliates, obtaining financial and business records of the Receivership Entities, investigation of prior actions and financial transactions, taking control of and marketing assets, conducting forensic accounting, preparing for and participating in contempt proceedings brought by the United States, obtaining approval to commence litigation, analysis of holdings and sales of IAS stock by insiders, efforts to prevent fraudulent trading of IAS shares, and administering the Receivership Estate.

## II. EXPANDING THE RECEIVERSHIP ESTATE

A. Motion, Opposition. On March 1, 2019, the Receiver filed *Receiver's Motion to Include Affiliates and Subsidiaries in the Receivership Estate*<sup>4</sup> seeking to include in the Receivership Estate the twelve companies identified in paragraph 2 of the Order and one additional entity (U-Check, Inc.) that had been controlled by Neldon Johnson. The motion was

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<sup>1</sup> [Docket No. 490](#). A *Corrected Receivership Order*, which corrected formatting errors, was entered the following day. [Docket No. 491](#), filed Nov. 1, 2018.

<sup>2</sup> *Memorandum Decision and Order Freezing Assets and to Appoint a Receiver*, [Docket No. 444](#), filed Aug. 22, 2018.

<sup>3</sup> [Docket No. 445](#), filed Aug. 27, 2018 and [Docket No. 472](#), filed Oct. 10, 2018. The Receiver understands briefing has been completed on the appeal and that oral argument is set for September.

<sup>4</sup> [Docket No. 582](#), filed Mar. 1, 2019.

opposed by Solco I, XSun Energy, Glenda Johnson, and Neldon Johnson.<sup>5</sup> The Receiver replied.<sup>6</sup>

B. Order Granting Motion. In May, the Court granted the Receiver's motion and ordered that the 13 affiliates and subsidiaries are now part of the Receivership Estate. The Court granted interested parties an additional 21 days to file objections to its order.<sup>7</sup>

C. Appeal, Renewed Objections. Attorneys claiming to represent six of these affiliates filed an appeal of the Court's order.<sup>8</sup> Objections also were filed again on behalf of XSun Energy,<sup>9</sup> Solco I,<sup>10</sup> and Solstice, Black Night, Starlite, and the N.P. Johnson Family Limited Partnership.<sup>11</sup> The Receiver replied on June 6, 2019.<sup>12</sup> The Court overruled the objections in early July, after the end of the Reporting Period.<sup>13</sup>

### **III. OBTAINING FINANCIAL AND BUSINESS RECORDS**

A. Subpoenas to Neldon Johnson, Glenda Johnson. In January, the Receiver issued subpoenas to Neldon and Glenda Johnson seeking the production of documents and compelling their attendance at depositions set for February 19, 2019 (for Neldon Johnson) and February 20, 2019 (for Glenda Johnson).<sup>14</sup> Neither documents nor testimony was provided until after the court hearings on contempt began.

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<sup>5</sup> [Docket No. 596](#), filed Mar. 15, 2019 (filed by XSun Energy, Solco I, Solstice, and Glenda Johnson); [Docket No. 597](#), filed Mar. 18, 2019 (filed by Neldon Johnson).

<sup>6</sup> [Docket No. 602](#), filed Mar. 29, 2019.

<sup>7</sup> [Docket No. 636](#), filed May 3, 2019.

<sup>8</sup> [Docket No. 698](#), filed Jun. 24, 2019. The Receiver's counsel will defend this appeal.

<sup>9</sup> [Docket No. 664](#), filed May 23, 2019.

<sup>10</sup> [Docket No. 665](#), filed May 23, 2019.

<sup>11</sup> [Docket No. 666](#), filed May 23, 2019. This same objection appears to have been filed again as [Docket No. 675](#), filed Mar. 24, 2019.

<sup>12</sup> [Docket No. 687](#), filed Jun. 6, 2019.

<sup>13</sup> [Docket No. 718](#), filed Jul. 8, 2019.

<sup>14</sup> [Docket No. 555](#) (Neldon Johnson), filed Jan. 14, 2019; [Docket No. 554](#) (Glenda Johnson), filed Jan. 14, 2019.

B. Wells Fargo Records. Copies of bank records from Wells Fargo bank were finally delivered to the Receiver. These have been delivered to the forensic accountants, who have mostly completed their analysis of the records.

C. Glenda Johnson Bank Records. Following the first hearing on the contempt motion, Glenda Johnson delivered to the Receiver copies of certain bank records and check registers. These were partial records. After multiple communications with her and her counsel, additional records were delivered to the Receiver. The Receiver believes he now has copies of all her relevant personal bank records. The forensic accountants have analyzed these records.

D. Laptop Computer. On May 9, 2019, the laptop of Glenda Johnson was delivered to the Receiver. The Receiver had previously been informed that this laptop contained the QuickBooks accounting records for RaPower and that the QuickBooks program had quit working, making it impossible to access the accounting data. The Receiver had a forensic image of the computer created by computer experts. The forensic computer experts were able to extract the accounting records and make them readable. The Receiver delivered a copy of the computer image to counsel for Neldon Johnson and to Nelson Snuffer. Lone Peak Valuation is analyzing the data in the QuickBooks files.

E. Documents Delivered to Receiver. Also on May 9, 2017, Defendants delivered 16 boxes of records and a flash drive to the Receiver. An additional 15 boxes of records were delivered to the Receiver on May 17, 2019.<sup>15</sup> The Receiver prepared a list of contents of the 31 boxes and the flash drive, which he provided to counsel for Defendants and to the United States. The Receiver had an outside company image the contents of the first 16 boxes of documents.

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<sup>15</sup> These were delivered pursuant to orders from the Court in the contempt proceedings. *See* Part VII, below.

Images of those documents were delivered to counsel for Defendants as well as copies of the flash drive contents.<sup>16</sup> The Receiver decided not to have the second batch of documents imaged because the information in those boxes appears less relevant to the Receiver's work. The Receiver has offered to permit counsel for Defendants to come to the Receiver's offices and review contents of those boxes upon request.<sup>17</sup>

#### IV. INVESTIGATION

A. Enforcement Actions by the Utah Division of Securities. On April 25, 2019, the Receiver obtained information from the Utah Division of Securities showing that IAS had been the subject of two administrative enforcement actions brought by the Division of Securities. The first was in 1989 when IAS was found to have sold securities improperly. The company was ordered to offer rescission to all persons who had purchased shares during a certain period and pay a penalty. The second was in 1991 when IAS's application for a trading exemption under the Utah Securities Act was denied and a penalty was assessed. The Receiver believes neither penalty was paid.

B. Depositions. Pursuant to Court order, Glenda Johnson submitted to be deposed on May 1, 2019.<sup>18</sup> The deposition of Neldon Johnson was taken the next day.<sup>19</sup> The Receiver obtained very useful information during these depositions.

C. Compliance Declarations. Individual Defendants as well as Glenda Johnson, LaGrand Johnson, and Neldon Johnson filed multiple compliance verifications on April 29,

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<sup>16</sup> The flash drive contains excerpts from the QuickBooks records and copies of corporate minutes and board resolutions.

<sup>17</sup> At the request of Johnson's counsel, the Receiver copied a particular group of documents in this batch.

<sup>18</sup> This was the third time her deposition had been scheduled.

<sup>19</sup> Neldon Johnson did file a notice of appeal of the order requiring him to submit for deposition. [Docket No. 626](#), filed Apr. 30, 2019. On June 24, 2019, the Tenth Circuit dismissed this interlocutory appeal.

2019, May 10, 2019, May 16, 2019, May 23, 2019, June 4, 2019, and June 7, 2019. The Receiver reviewed the declarations and documents submitted with the declarations. On June 21, 2019, counsel for LaGrand Johnson and Randale Johnson submitted draft compliance verifications to the Receiver for review and comment. The Receiver, together with the United States, submitted extensive comments to their counsel, identifying ways the draft declarations failed to comply with requirements of the Order.

D. Debts Owed to Shepard, Losses Due to Fraud. Greg Shepard's compliance verifications provided information about loans he has made to his son Matthew and Matthew's business partner, Steven Bowers. Shepard also provided documents showing losses he incurred investing in an options trading program and a South African bank scam. The Receiver has requested information from these recipients of funds and has demanded the return of these funds.

E. Dissipation of IAS Funds in June 2018. The trial in the lawsuit brought by the United States concluded on June 22, 2018. At that time, the Court issued a ruling from the bench declaring that defendants were operating a massive tax fraud scheme. During the Reporting Period, the Receiver discovered numerous transfers of funds by Defendants in the period shortly before and after the conclusion of the trial. These included:

1. IAS paid \$60,000.00 to Randale Johnson on June 6, 2018;
2. IAS paid \$60,000.00 to LaGrand Johnson on June 6, 2018;
3. IAS transferred \$120,000.00 to Glenda Johnson on June 6, 2018;
4. IAS paid \$50,000.00 to Robert Johnson<sup>20</sup> on June 15, 2018;
5. IAS paid \$2,250,000.00 to Robert Johnson on June 20, 2018;

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<sup>20</sup> Robert Johnson is not related to Neldon Johnson.

6. Glenda Johnson moved \$140,000.00 from the RaPower bank account to the Cobblestone bank account on June 22, 2018;

7. Cobblestone paid \$1,945,500.00 to Glenda Johnson on June 22, 2018;

8. XSun paid \$1,000,000.00 to the Nelson Snuffer law firm on June 25, 2018; and

9. Solco I paid \$168,000.00 paid to the Nelson Snuffer law firm on June 25, 2018.<sup>21</sup>

F. Payments to Robert Johnson. The \$50,000.00 paid to Robert Johnson was identified as being for consulting services. The \$2,250,000.00 check paid to him did not identify the purpose of the payment. The Receiver obtained records of Robert Johnson's bank accounts and learned he expended some of the funds received from IAS to pay off a mortgage and has transferred a large portion of the funds to a different bank. The Receiver has made demand on Robert Johnson for return of these funds. Counsel for Robert Johnson has agreed to put the funds Robert Johnson still holds in the attorney's trust account, to prevent further dissipation of these funds, until this issue is resolved.

G. Cash Withdrawals by Glenda Johnson. After moving funds from RaPower to Cobblestone and then to her personal bank account on June 22, 2019, Glenda Johnson made numerous cash withdrawals and payments to others. On October 5, 2018, she transferred \$400,000.00 from her bank account to LaGrand Johnson and to Randale Johnson (giving \$200,000 to each). On March 22, 2019, she moved \$200,000.00 from her account to a different

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<sup>21</sup> All these payments and transfers were made by Glenda Johnson. In her deposition, she testified that she made no payments or transfers except as directed by Neldon Johnson.



bank account she controls for her deceased mother. Between July 2, 2018 and January 30, 2019, Glenda Johnson withdrew at least \$118,000.00 in cash from her bank accounts. Mrs. Johnson has agreed to not expend any funds from the two accounts into which she transferred funds from Cobblestone, a stipulation that was approved by the Court.<sup>22</sup>

H. Real Properties Titled in Name of Glenda Johnson. Eighteen of the properties identified in the Corrected Receivership Order are titled in the name of Glenda Johnson, including three where title to the property was given to her by quitclaim deed from Neldon Johnson. In her deposition, Glenda Johnson acknowledged that funds from Receivership Entities were used to purchase 17 of those properties and to pay half of the purchase price for the eighteenth. The Receiver has demanded that she turn over title and possession of those properties to the Receivership Estate. The Receiver expects he will have to seek turnover and recovery of the properties in court.

I. Lens Sales Continued After Trial Ruling. Company records provided to the Receiver in May 2019 revealed that RaPower continued selling lenses into July 2018, after the Court had already ruled that the solar scheme was fraudulent.

J. Credit Card Payments. Newly delivered documents included some credit card records. An initial review of those records indicates that personal expenses were charged on those credit cards and that Receivership funds were used to pay those credit card expenses. Further investigation is needed before determining whether complete analysis of credit card statements is warranted.

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<sup>22</sup> [Docket No. 672](#), filed May 24, 2019. A compliance verification provided by Glenda Johnson in early July indicated that all of the cash withdrawals have been spent.

K. Embezzlement by Lisa Phillips. Lisa Phillips, a former employee of IAS, was found to have embezzled over \$200,000.00. Johnson agreed not to file criminal charges in exchange for Lisa Phillips and her husband Blain agreeing to repay \$200,000.00 to IAS. The Phillips gave a promissory note to IAS secured by two properties they owned.<sup>23</sup> Despite this, Johnson retained Blain Phillips as a director of IAS. Johnson also allowed Blain Phillips financial credit against the repayment obligation for Blain Phillips' continued service on the board of directors. Consequently, no payments were made by the Phillips on the note. Moreover, one of the two properties that secured the promissory note was sold, in violation of terms of the secured note. The Receiver sent a demand to the Phillips for payment of the amount of the promissory note.

L. Divorce Settlement. During the Reporting Period, the Receiver obtained a copy of the settlement agreement relating to Neldon Johnson's divorce from his former wife, Ina (Johnson) Newman. As part of the March 13, 2013 property settlement, Neldon Johnson conveyed to Newman his interest in real property in Salem, Utah. Johnson caused IAS to release a \$650,000.00 lien IAS held on the property and also to pay Newman \$50,000.00. The Receiver believes these were fraudulent transfers that benefitted Newman and Johnson, not IAS, and has demanded a return of these funds from Newman. Newman disputes that the release of the lien and the cash payment were fraudulent transfers. The Receiver expects litigation will be necessary to recover these funds.

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<sup>23</sup> The Receiver had requested that Nelson Snuffer provide information about debts owed to IAS and RaPower. Information about amounts owed by the Phillips was not provided in response to that request. Nelson Snuffer finally provided relevant documents in response to a specific request by the Receiver. Nelson Snuffer explained that its failure to identify this information earlier was an oversight.

M. Payments to Law Firms. The Receiver requested information from law firms regarding the nature of the work they performed, investigating whether legal work that was paid by one of the Receivership Entities was performed for the benefit of Neldon Johnson, other insiders, and lens purchasers—and not for the benefit of IAS and RaPower.

1. Review of Invoices. The Receiver obtained copies of invoices from multiple law firms and evaluated the legal work performed, identifying those tasks where the benefit went to Receivership Entities and where benefits went to others. The lack of precision in some of the law firm billing records sometimes made it difficult to identify the beneficiary of the work. This suggests that some of the litigation by the Receiver to recover amounts paid to attorneys may require resolution of significant factual disputes and review of the law firm's files.

2. Stock Issued to Nelson Snuffer. The Receiver had previously learned of more than nine million shares of IAS stock that IAS issued to the law firm Nelson Snuffer. Over five million of these shares were sold by Nelson Snuffer between 2009 and 2012,<sup>24</sup> giving Nelson Snuffer more than \$1.2 million in cash. Nelson Snuffer used the proceeds from these sales to pay legal fees owed to it and to pay other law firms.

Documents delivered to the Receiver by Defendants on May 10, 2019 indicated that Nelson Snuffer also received and sold stock prior to 2009. Minutes of meetings of the IAS board of directors (which were among the documents delivered to the Receiver) indicated that the board approved issuing over 16 million shares of IAS stock to Nelson Snuffer between 2000 and 2011. At the request of the Receiver, Nelson Snuffer provided

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<sup>24</sup> Nelson Snuffer surrendered certificates representing 3.5 million shares to the Receiver in March 2019.

partial records showing information regarding stock sales prior to 2009. The Receiver believes at least three million shares of IAS stock were issued to Nelson Snuffer between 2002 and 2009.

The IAS stock was issued to Nelson Snuffer in consideration of future legal services to be provided. Nelson Snuffer opened accounts at securities brokerage firms and sold the shares through those brokerage firms. The Receiver has so far identified over \$4.5 million deposited into the Nelson Snuffer trust account between 2002 and 2015, mostly from sales of restricted IAS stock.<sup>25</sup> Nelson Snuffer retained the proceeds from those stock sales and paid itself—and others—from those proceeds.<sup>26</sup>

The process of IAS issuing enormous blocks of stock to Nelson Snuffer had the effect of Neldon Johnson and other Receivership Defendants being able to consume prodigious amounts of legal services without incurring any costs for those services. Part IX, below, contains a more extensive discussion of stock issued to Nelson Snuffer and other insiders of the Receivership Defendants.

3. Nelson Snuffer Role in Paying Company Expenses. IAS used newly issued stock not only to provide a source of funding for work performed by Nelson Snuffer, but also to pay other expenses. Out of \$1.2 million in stock sales proceeds between January 2009 and September 2013, \$1.0 million was paid to Nelson Snuffer. Nelson Snuffer paid more than \$200,000 from these proceeds to other law firms, the U.S.

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<sup>25</sup> Stock that has not been registered and is being issued pursuant to exemptions (commonly called Rule 144 stock) is called restricted stock. In general, restricted stock cannot be sold until at least one year has expired since its issuance. This \$4.5 million amount includes the \$1.2 million for the period from 2009 to 2012.

<sup>26</sup> As noted above, some of the legal work for which Nelson Snuffer was paid redounded to the benefit of Neldon Johnson, other family members, and lens purchasers—not to RaPower or IAS.

Patent Office, and intellectual property consultants. In addition, IAS received a significant amount of funds pursuant to a confidential litigation settlement. The payment of the settlement amount was not paid to IAS. Instead, the amount was retained in Nelson Snuffer's trust account and subsequently used to pay expenses as directed by IAS or distributed to IAS in segments.

4. Demands on Law Firms. The Receiver has made demands on multiple law firms for the return of payments they received where the legal services were for the benefit of persons other than the Receivership Entities.<sup>27</sup> The Receiver expects to file lawsuits seeking the return of these funds. He expects the litigation will be contentious.

## V. MARKETING OF REAL ESTATE, OTHER ASSETS

A. Aircraft. As a result of the Order including the affiliates in the Receivership Estate, the Receiver now has the right to ask the Federal Aviation Administration to transfer title to him for the neglected Cessna twin engine airplane. In June 2019, the aircraft mechanic who performed the annual certification on the Mooney airplane went to Delta to evaluate the two aircraft to be sold. The Receiver has identified three potential buyers for the Mooney and will decide whether to conduct an auction of the aircraft in place or transport the airplane to the aircraft broker in California.

B. Real Property Owned by IAS. Six of the real properties are titled in the name of IAS. The Receiver has hired listing agents for these properties and obtained appraisals. Offers have been received on four of these properties:

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<sup>27</sup> In some instances, the law firms provided records demonstrating that IAS and RaPower were the beneficiaries of the legal services.

1. San Bernardino Land. IAS owns a 6.2-acre parcel of desert land bordering Interstate 15 in San Bernardino County, California. On April 9, 2019, the Court approved the Receiver's motion to employ an appraiser to value the property.<sup>28</sup> The appraisal valued the property at \$4,000.00. The Receiver preliminarily accepted an offer of \$3,500.00 and filed a motion seeking approval to sell the property at auction, with the initial offer constituting the opening bid at the auction.<sup>29</sup> The Court approved the motion<sup>30</sup> and the Receiver set the auction date for July 9, 2019 in San Bernardino.<sup>31</sup>

2. Millard County Tower Site (HD-4658-1). The property in Millard County where RaPower constructed the initial group of 19 solar towers is 75.4 acres. The Court approved the appraiser recommended by the Receiver.<sup>32</sup> The appraisal report noted the dilapidated, non-functioning nature of the solar towers and the presence of old structures, semi-truck trailers, abandoned equipment, cargo containers, sheds, pipe, and debris scattered throughout the tower area. The appraiser provided two valuations: a valuation of \$30,000.00 if the property were remediated by the removal of solar towers and debris and \$3,800.00 in its "as is" condition. The appraiser obtained two widely divergent estimates for the cost of property cleanup; one estimate was for \$20,000.00 and the other estimate was \$497,000.00. The appraiser believes a more accurate cleanup cost would be approximately \$150,000.00. In light of this information, the Receiver

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<sup>28</sup> [Docket No. 607](#), filed April 9, 2019.

<sup>29</sup> [Docket No. 610](#), filed Apr. 18, 2019.

<sup>30</sup> [Docket No. 668](#), filed May 23, 2019.

<sup>31</sup> Because no other bidders prequalified for the auction at least five business days before the scheduled auction, the Receiver canceled the auction and will sell the property to the stalking horse bidder. The results will be reported in a notice of auction results and the next status report.

<sup>32</sup> [Docket No. 607](#), filed April 9, 2019.

determined to sell the property in its “as is” condition, rather than expending Receivership funds that was unlikely to result in a higher net amount.

The Receiver preliminarily accepted an offer of \$3,800.00 for the property and filed a motion seeking court approval to conduct an auction of the property.<sup>33</sup> The court approved the motion<sup>34</sup> and the Receiver set an auction date of July 18, 2019. Additional bidders have prequalified for this auction, so the auction will occur.

3. 40-Acre Site (HD-4654). This property was appraised at \$8,000.00. Near the end of the reporting period, the Receiver preliminarily accepted an offer of \$8,500.00 for this property. After the end of the Reporting Period, the Receiver submitted a motion seeking approval to conduct an auction to sell this property. This will be discussed in the next quarterly report.

4. 80-Acre Site (HD-4657). This property was appraised at \$24,000.00. In late June, the Receiver preliminarily accepted an offer of \$24,000.00 for this property. After the end of the Reporting Period, the Receiver submitted a motion seeking approval to conduct an auction to sell this property.

5. 120-Acre Site (HD-4609). The appraised value of this property is \$48,000.00. After the end of the Reporting Period, the Receiver received an offer on this property for \$45,000.00 and will file a motion seeking approval to conduct an auction to sell this property. This will be discussed in the next quarterly report.

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<sup>33</sup> [Docket No. 661](#), filed May 20, 2019.

<sup>34</sup> [Docket No. 689](#), filed Jun. 6, 2019.

6. 320-Acre Site (HD-4612). The appraisal of this property indicated a value of \$128,000. No offers were received on this property during the Reporting Period.

C. Water Rights. Both the listing agent and appraiser for the Millard County properties identified potential water rights related to properties in Millard County. The Receiver researched records from the Utah Division of Water Rights and also found documents in the boxes of records delivered by Defendants indicating that Neldon Johnson owned interests in two water rights. One, No. 55-4768, was a lapsed application for a water right. Because the application lapsed, there is no right to drill a well or use water. The second, No. 68-526, is a certificated water right held in Neldon Johnson's name.<sup>35</sup> The well is located on parcel HD-4658, property titled in the name of Glenda Johnson, and that water apparently is being used on properties held in her name. The Receiver filed a Report of Water Right Conveyance ("ROC") with the Utah Division of Water Rights identifying the Receiver as the owner of that water right. The Division of Water Resources confirmed the conveyance of the water right to the Receiver on June 5, 2019.

D. Shepard Home. The Receiver has made demand on Diana Shepard and her trust for the turnover of the Shepard home to the Receiver. The Receiver expects to file suit against Diana Shepard and her trust to have this home declared to be a Receivership asset.

E. Texas Properties. A consequence of the Court including affiliates in the Receivership Estate is that the Receiver now controls two properties in Howard County, Texas

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<sup>35</sup> This water right was purchased on June 20, 2006 and related to the 120-acre parcel HD-4609. Notwithstanding that the HD-4609 property was titled in the name of IAS, the water right was transferred to Neldon Johnson personally.



that are titled in the name of N.P. Johnson Family Limited Partnership. The Receiver sent notices to three companies who have easements to use that property, advising them of the Receivership and requesting information. In late June, the Receiver learned that Neldon Johnson planned a trip to Texas. The Receiver notified Johnson's counsel that he was not authorized to enter the property or communicate with the companies using the property. The Receiver will market this property.

## **VI. FORENSIC ACCOUNTING**

A. Bank Records. The final records from Wells Fargo Bank and Glenda Johnson were delivered to the Receiver and are in the process of being incorporated into the forensic accounting being performed by Lone Peak Valuation Group.

B. Uses of Forensic Accounting. The forensic accounting has already played a significant role in testimony by and exhibits from the Receiver in the contempt proceedings (discussed below). The Receiver has used information from the forensic accounting as the foundation for demands that have been made to law firms, insiders, and other recipients of funds for the return of funds. This information also is being used as a means of checking the accuracy and completeness of information provided by Johnson, Shepard, and their family members. The Receiver will use the results of this analysis to identify other recipients of funds that the Receiver believes should be returned to the Receivership Estate.

## **VII. CONTEMPT MOTIONS, HEARINGS, AND ORDERS**

A. Pacific Stock Transfer Company. In February, the Receiver filed a motion seeking to hold the Pacific Stock Transfer Company ("PSTC") in contempt for failing to deliver records

requested by the Receiver.<sup>36</sup> Evidence regarding the PSTC's failure to provide required documents was submitted at a hearing on April 26, 2019 at which time the Court ruled the PSTC was in contempt, imposed a deferred fine until compliance was achieved, and awarded attorneys' fees to the Receiver.<sup>37</sup> A written ruling finding contempt and ordering PSTC to provide information to the Receiver was issued on May 24, 2019.<sup>38</sup> On June 24, 2019, PSTC provided some information to the Receiver. The transmittal letter from PSTC contained a date of April 24, 2019. PSTC claimed to have mailed the letter and accompanying information to both the Receiver and his counsel in April. However, neither the Receiver nor his counsel received any information from PSTC before copies were sent via email on June 24, 2019. In any event, the information produced on June 24, 2019 is incomplete; the PSTC still refused to provide what it describes as "confidential shareholder information" unless the Receiver satisfies conditions imposed by the PSTC.<sup>39</sup> After the end of the Reporting Period, counsel for PSTC contacted the Receiver to discuss PSTC's obligations under the Court's orders and any outstanding documents requested by the Receiver. The result of these communications will be discussed in the next quarterly report.

B. Adverse Inferences. As described in the Second Status Report—and next, the United States filed a motion seeking to hold Johnson, Shepard, and other insiders in contempt.<sup>40</sup>

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<sup>36</sup> [Docket No. 576](#), filed Feb. 19, 2019.

<sup>37</sup> The Receiver's motion for attorneys' fees and expenses from PSTC is at [Docket No. 642](#), filed May 8, 2019. The order awarding fees to the Receiver is at [Docket No. 702](#), filed Jun. 25, 2019.

<sup>38</sup> [Docket No. 677](#), filed May 24, 2019.

<sup>39</sup> The PSTC letter stated that LaGrand Johnson remains as the person under the transfer agent contract and that he continues to make payments for PSTC services. This is notwithstanding that the Receiver sent the Corrected Receivership Order to PSTC and informed the company that the Receiver is the only one authorized to act on behalf of IAS.

<sup>40</sup> [Docket No. 559](#), filed Jan. 29, 2019.

After the first day of hearing on the United States' contempt motion, the Court issued *Notice re: Compliance and Adverse Inferences*, warning Defendants and others obligated to provide information to the Receiver of the need for their full cooperation.<sup>41</sup> Two objections were filed to the Court's notice.<sup>42</sup> The Court overruled NSDP's objection and struck Johnson's objection.<sup>43</sup>

C. United States' Motion for Order to Show Cause. On March 5, 2019, the Court issued an order specifying procedures for the consideration of the United States' January motion, requiring personal service of the motion on affected persons, setting a deadline for responses, and setting a hearing for April 26, 2019.<sup>44</sup> The Receiver testified at the April 26, 2019 hearing. At the conclusion of the half-day hearing on April 26, 2019, the Court set a continuation of the hearing for May 3, 2019 and ordered Neldon Johnson and Glenda Johnson to appear before the Receiver and be deposed before May 3.

The Receiver testified again at the May 3, 2019 hearing.<sup>45</sup> Subsequent to the May 3, 2019 hearing, the Court issued a number of orders including notice of compliance and adverse inferences,<sup>46</sup> appointing counsel for Johnson,<sup>47</sup> mandating the delivery of documents and a

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<sup>41</sup> [Docket No. 638](#), filed May 6, 2019.

<sup>42</sup> NSDP Objection, [Docket No. 644](#), filed May 8, 2019, Neldon Johnson Objection, Docket No. 645, filed May 9, 2019.

<sup>43</sup> [Docket No. 680](#), filed May 24, 2019.

<sup>44</sup> [Docket No. 588](#), filed Mar. 5, 2019. *See also* [Docket No. 609](#), filed Apr. 17, 2019 (order requiring submission of witness and exhibit lists).

<sup>45</sup> The minute order relating to the hearing is at Docket No. 634, filed May 3, 2019. The Court previously quashed a subpoena issued on behalf of Neldon Johnson that sought to require the Court and Magistrate Judge Evelyn J. Furse to testify at the hearing. [Docket No. 633](#), filed May 2, 2017. At the Court's direction, the Receiver met individually with Shepard to discuss the expectations of the Receiver and requirements of the Order, to assist Shepard in understanding actions he needed to take.

<sup>46</sup> Discussed above in Part VII.B.

<sup>47</sup> Docket No. 652, filed May 16, 2019. Counsel, Ed Wall, filed a notice of appearance ([Docket No. 655](#), filed May 16, 2019), then a motion to withdraw and become standby counsel ([Docket No. 657](#), filed May 17, 2019). The Court took the motion under advisement ([Docket No. 660](#), filed May 18, 2019) and ultimately denied the motion at the hearing on May 28, 2019 after the Court denied a motion by attorney Denver Snuffer to postpone the hearing so Snuffer could represent Johnson, at which point Johnson indicated he was satisfied with Ed Wall.

laptop computer to the Receiver by May 17, 2019, the providing of information about cash withdrawals by Glenda Johnson,<sup>48</sup> and a stipulated order that Glenda Johnson preserve all funds in two bank accounts she controlled.<sup>49</sup>

The hearings on the contempt motion concluded after a third day of hearings on May 28, 2019. The Receiver again testified, as did Shepard.<sup>50</sup> At that time, the Court made findings of contempt and later issued a written order that included findings of fact and conclusions of law.<sup>51</sup> Each individual Defendant and each respondent (which included Glenda Johnson, Randale Johnson, and LaGrand Johnson) were found in contempt. The written order described actions that were required by the Defendants and respondents to purge their contempt and awarded attorneys' fees to the United State and to the Receiver.<sup>52</sup> Subsequent to the conclusion of the contempt hearings, the Receiver has worked with the United States in the preparation of the order and with attorneys for the individual Defendants and the respondents to achieve their compliance with the Order.<sup>53</sup>

## VIII. LITIGATION

A. Johnson Motion to Dismiss Receiver. Johnson filed a motion on April 24, 2019 to dismiss the Receiver.<sup>54</sup> The Court denied the motion on April 29, 2019.<sup>55</sup> Johnson appealed this order, which appeal was dismissed by the Tenth Circuit Court of Appeals.<sup>56</sup>

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<sup>48</sup> [Docket No. 676](#), filed May 24, 2019.

<sup>49</sup> [Docket No. 672](#), filed May 24, 2019.

<sup>50</sup> *See* Minute Order, Docket No. 685, filed May 29, 2019.

<sup>51</sup> [Docket No. 701](#), filed June 25, 2019.

<sup>52</sup> The written order determined that Shepard's contempt had been purged. *Id.* at 25.

<sup>53</sup> This includes evaluating and commenting on draft declarations submitted by Randale and LaGrand Johnson.

<sup>54</sup> [Docket No. 617](#), filed Apr. 24, 2019.

<sup>55</sup> [Docket No. 624](#), filed Apr. 29, 2019.

<sup>56</sup> The Tenth Circuit dismissed the appeal on June 24, 2019.

B. Shepard Tax Court Settlement. The Receiver filed a motion to lift the Order's litigation stay, which would allow Shepard to settle his litigation pending in the United States Tax Court.<sup>57</sup> The Court granted the motion.<sup>58</sup> It is the Receiver's understanding that settlement was not accomplished within the 60 days allotted by the order granting the motion, so the order lifting the stay has expired.<sup>59</sup>

C. Motion for Leave to Commence Legal Proceedings. The Receiver filed a motion on April 30, 2019, seeking leave to commence legal proceedings.<sup>60</sup> The motion described 12 categories of potential defendants in recovery litigation anticipated by the Receiver. An opposition was filed on behalf of XSun, Solco, Solstice, Randale Johnson, Glenda Johnson, and LaGrand Johnson.<sup>61</sup> The Receiver filed his reply.<sup>62</sup> On May 24, 2019, the Court granted the Receiver's motion, authorizing the Receiver to commence litigation against persons and entities in certain enumerated categories, after first obtaining consent from counsel for the United States for each particular lawsuit to be filed.<sup>63</sup>

D. Demands to Potential Targets. The Receiver has begun sending demand letters to potential targets of litigation, demanding the return of monies and properties or an explanation of the reasons the targets believe they are not obligated to return those assets. The Receiver expects to commence litigation in July.

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<sup>57</sup> [Docket No. 604](#), filed Apr. 5, 2019.

<sup>58</sup> [Docket No. 618](#), filed Apr. 26, 2019.

<sup>59</sup> *See Id.* at 2-3.

<sup>60</sup> [Docket No. 628](#), filed Apr. 30, 2019.

<sup>61</sup> [Docket No. 643](#), filed May 8, 2019.

<sup>62</sup> [Docket No. 659](#), filed May 17, 2019.

<sup>63</sup> [Docket No. 673](#), filed May 24, 2019.

## **IX. SALES OF IAS STOCK BY INSIDERS**

A. Records from Pacific Stock Transfer. Despite the PSTC failing to deliver all of the information required by subpoena and the Court's order, the transfer agent did provide useful information about the number of IAS shares stock that have been sold by insiders in the past and the number of shares still held. The Receiver is still seeking information from PSTC and the insiders that will show the dates of each stock sale by insiders, the price at which the shares were sold, and the net proceeds from each sale.

B. Sales by Insiders. The table below summarizes information deduced from records provided by the PSTC. It shows, for each insider, the number of shares that have been sold and the number of shares the insider still owns. The date ranges shown in the table reflect the time periods during which the shares were issued, not when the shares were sold.<sup>64</sup>

<b>SALES OF IAS STOCK BY INSIDERS</b>					
<b>Shareholder Name</b>	<b>Number of Shares Sold</b>	<b>Number of Certificates</b>	<b>First Issued</b>	<b>Last Issued</b>	<b>Number of Shares Still Held</b>
Buchanan, Glenda <sup>65</sup>	115,000	2	11/18/02	11/24/02	0
DCL16BLT, Inc.	500,000	1	9/28/11		0
Eleven, LLC <sup>66</sup>	400,000	1	3/16/04		0
Hamblin, Roger <sup>67</sup>	1,134,200	14	8/3/06	9/30/10	2,273,388
Johnson, Donnel R. <sup>68</sup>	542,000	3	8/3/96	10/30/10	0
Johnson, LaGrand	8,520,865	67	10/2/97	1/26/11	200,000

<sup>64</sup> PSTC records provided information about stock certificates issued to every current and past shareholder, indicating which certificates whose shares had been completely sold. The table provides information only for certain persons whom the Receiver believes are insiders. In some instances, there were multiple records for the same or similar names. It is possible some of the shares attributed to those listed in the table below reflect holdings of different people having the same name. The Receiver also notes that stock is often held in "street name" at brokerage firms or trust companies. To the extent insiders hold stock in street name at brokerage houses or trust companies, those holdings (and prior sales) will not be reflected in this table.

<sup>65</sup> The Receiver believes this is the same person as Glenda Johnson.

<sup>66</sup> This entity is a company controlled by Shepard. Shepard says the company is no longer operating.

<sup>67</sup> This includes shares in his name and the name of his trust. It excludes shares sold and held by family members.

<sup>68</sup> This is a son of Neldon Johnson.

Johnson, Reiko <sup>69</sup>	259,680	3	1/9/97	8/7/97	84,545
Johnson, Neldon	84,416,602	192	8/3/96	1/30/09	1,005,020
Johnson, Randale	6,169,328	61	8/3/96	1/26/11	450,085
Johnson, Robert	3,118,885	31	7/24/96	8/31/10	2,649,147
Lyman, Gregory	430,888	11	8/4/96	10/17/12	90,692
N.P Johnson FLP	10,000,000	1	6/2/05		0
Nelson, David (NSDP)	90,760,300	47	8/30/00	10/25/11	1,500,000
Phillips, Lisa <sup>70</sup>	40,000	2	2/8/06	6/30/08	70,000
RaPower-3	0				19,720,587
RLN Management <sup>71</sup>	500,000	1	3/2/05		0
Shepard, R. Gregory	1,565,000	7	8/4/96	6/4/07	1,000,000
Smith, Brenda <sup>72</sup>	1,016,637	13	8/4/96	6/15/01	0
Snow, Stacy Curtis	1,084,291	19	8/4/96	1/26/10	380,230
Taylor, Christopher	3,219,421	46	11/1/96	1/16/13	382,284
XSun Energy	0				5,250,000
<b>Total</b>	<b>213,793,097</b>				<b>35,055,978</b>

C. Value of Shares Sold and Retained. The market price of the IAS shares has varied from over \$40.00 per share to approximately \$0.01 per share. At the point when the Receiver later obtains information showing the prices at which these insiders sold their shares, the Receiver will be able to estimate better the proceeds the insiders received from these sales. However, using the closing IAS stock price for June 27, 2019 of \$0.044, the 213 million shares sold by these insiders would have produced sales proceeds of \$9.4 million. If the average share price for these sales was \$1.00, the insiders would have received \$213 million. The 35 million shares still owned by insiders is worth \$1.54 million at current stock prices.

D. Source of Income. While it is not yet known at what price all these shares were sold, the volume of shares sold does indicate that sales of securities were a significant income

<sup>69</sup> This is the wife of LaGrand Johnson.

<sup>70</sup> This is a former employee of IAS who embezzled funds. She is the wife of Blain Phillips, an IAS director..

<sup>71</sup> This was a company owned by Neldon Johnson.

<sup>72</sup> This is a daughter of Neldon Johnson.

source for all of these insiders. The Receiver does have more detailed information about sales of IAS stock by two insiders and hints of the amount of sales proceeds received by a third insider.

1. In the boxes delivered by Defendants in May 2019, the Receiver found brokerage transaction records showing sales of stock by Neldon Johnson. Between December 1, 2005 and September 24, 2007, he sold 1.35 million shares in 86 transactions. These sales netted \$776,953.84 to Johnson during that 22-month period.<sup>73</sup>

2. In his April 2019 compliance verification, Randale Johnson sent copies of checks he had written to Neldon Johnson and IAS. There were 14 checks from Randale Johnson to Neldon Johnson between January 9, 2007 and February 5, 2008 totaling \$361,000.00. Randale Johnson did not provide any explanation for why he wrote frequent checks to his father, ranging in amounts from \$17,000.00 to \$45,000.00.<sup>74</sup>

3. As noted in the table above, Nelson Snuffer may have sold as many as 90,760,300 shares. The Receiver's information is still incomplete, but he has so far identified \$3,347,595.95 in deposits to the Nelson Snuffer trust account that appear to be the proceeds of sales of IAS stock issued to the law firm between January 2002 and February 2009. This is in addition to the \$1.2 million in stock sales between 2009 and 2012.<sup>75</sup>

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<sup>73</sup> If PSTC records are to be believed, Neldon Johnson did not sell any stock held in his name after November 2015.

<sup>74</sup> One possibility is that Neldon Johnson had IAS issue shares to Randale, expecting that Randale would sell the shares out of his personal account and give the proceeds to Neldon Johnson. Subsequently, Randale Johnson sold another \$461,360.00 in shares and paid those amounts to IAS.

<sup>75</sup> These totals also do not count: a) the more than \$2.9 million that the Receiver has traced to Nelson Snuffer that was paid directly by IAS, RaPower, and Cobblestone after 2009, b) the \$1.168 million that Glenda Johnson paid to Nelson Snuffer from XSun and Solco on June 22, 2018, or c) the significant settlement amount that IAS had Nelson Snuffer hold and distribute.



E. Sales at Discount. The corporate records delivered to the Receiver in May contained copies of some board resolutions and minutes of board meetings. Among those board documents were approvals to sell stock to certain insiders at a 25% discount from the then-prevailing market price. In other words, these favored insiders were able to buy stock at a 25% discount and then turn around and sell the stock in the over the counter market at the prevailing price.<sup>76</sup> The favored insiders who were able to buy stock at a discount were:

1. Roger Hamblin,
2. Robert Johnson,
3. Greg Lyman,
4. RaPower-3, LLC,
5. Christopher Taylor,
6. Stacy Curtis Snow, and
7. XSun Energy, LLC.

F. Outstanding Securities. PSTC documents indicate that there is a total of 1,007 shareholders who own IAS stock. The total number of shares outstanding is 177,281,344. The 213 million shares sold by insiders represents more than the total number of IAS shares outstanding, illustrating the dominance of the value of securities sold by insiders. The 35 million shares still owned by insiders represent 19.7% of the total number of shares outstanding.

G. Warrants Exercised and Outstanding. In addition to the shares issued to and sold by insiders, IAS issued warrants to insiders.<sup>77</sup> The number of warrants that have been converted

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<sup>76</sup> If the shares were restricted, as these were, there would generally be a one-year holding period for the shares before they could be sold.

<sup>77</sup> After 1986, warrants were issued only to insiders.

to shares and the number of warrants still outstanding for key insiders (as reported by PSTC) are shown in the table below.<sup>78</sup>

<b>WARRANTS EXERCISED AND HELD BY CERTAIN INSIDERS</b>		
<b>Warrant Holder</b>	<b>Shares from Warrants</b>	<b>Warrants Still Held</b>
Bruce Barrett <sup>79</sup>	100,000	0
Hamblin, Roger	0	1,000,000
Johnson, LaGrand	400,000	2,000,000
Johnson, Neldon	101,800,000	0
Johnson, Donnel	0	500,000
Nelson, David	1,000,000	1,000,000
N.P. Johnson FLP	203,575,000	84,425,000
Johnson, Randale	300,000	2,000,000
Smith, Brenda	0	500,000
Snow, Stacy Curtis	0	500,000
Taylor, Christopher	0	500,000
<b>Total</b>	<b>307,175,000</b>	<b>92,425,000</b>

## **X. RECEIVER'S MOTION TO CANCEL IAS SHARES**

A. Order's Mandate, Prior Recommendations by the Receiver. The Order instructed the Receiver to “investigate the publicly-traded status of IAS and provide a recommendation to the Court on whether IAS should remain a publicly traded company or should otherwise be liquidated and dissolved.”<sup>80</sup> In the Receiver's accounting report, he expressed his recommendation that IAS should not remain a publicly traded company.<sup>81</sup>

<sup>78</sup> The documents seen by the Receiver indicate that the IAS warrants had an exercise price of \$0.40 per share. This means the warrant holder would need to pay IAS \$0.40 for each share that it acquired by exercising the warrants. Based on some initial analysis by the Receiver, there were very few instances where insiders paid IAS \$0.40 per share when warrants were exercised.

<sup>79</sup> This is a former director of IAS, now deceased.

<sup>80</sup> Order at ¶ 85.

<sup>81</sup> [Docket No. 552](#), filed Dec. 31, 2018.

B. Receiver's Motion. On May 27, 2019, the Receiver filed a motion seeking an order from the Court canceling the shares of IAS, to prevent manipulation of shares, harm to potential investors,<sup>82</sup> and further sales of securities by insiders.<sup>83</sup> Nelson Snuffer filed an opposition, purportedly on behalf of IAS.<sup>84</sup> The Receiver filed his reply on June 19, 2019.<sup>85</sup> The Court granted the motion after the end of the Reporting Period and stock trading has been halted. The order and actions taken to implement the order will be discussed in more detail in the next status report.

## **XI. FINANCIAL OPERATIONS OF THE RECEIVERSHIP ESTATE**

A. Living Allowance to Shepard. During proceedings on the United States' motion for contempt, the Court directed Shepard to provide financial information to the Receiver and for the Receiver and Shepard to confer on whether the Receivership Estate should provide a monthly living allowance to Shepard.<sup>86</sup> Shepard provided information on his financial affairs<sup>87</sup> after which the Receiver and Shepard submitted a proposed stipulation to the Court.<sup>88</sup> The stipulation was approved by the Court<sup>89</sup> and the Receiver has begun making \$830.00 monthly payments to Shepard as living allowance.

B. Receipts and Disbursements. The table below shows the amount and source of funds brought into the Receivership Estate during the quarter and the categories of expenditures:

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<sup>82</sup> After filing the motion, the Receiver received a call from a resident of another state wanting to know how he could invest with IAS, relating that he had been told by a friend that the founder of the company was a genius.

<sup>83</sup> [Docket No. 682](#), filed May 27, 2019.

<sup>84</sup> [Docket No. 690](#), filed Jun. 7, 2019.

<sup>85</sup> [Docket No. 696](#), filed Jun. 19, 2019.

<sup>86</sup> [Docket No. 637](#), filed May 6, 2019.

<sup>87</sup> [Docket No. 650](#), filed May 14, 2019.

<sup>88</sup> [Docket No. 679](#), filed May 24, 2019.

<sup>89</sup> [Docket No. 681](#), filed May 24, 2019.

<b>Revenue into the Receivership Estate</b>	
<b>Source of Revenue</b>	<b>Amount In</b>
Cobblestone refund	\$54.07
Funds owed defendants	\$2,293.24
Bank interest	\$592.19
Real estate bid deposit	\$1,000.00
<b>Total</b>	<b>\$3,939.50</b>

<b>Expenditures</b>	
<b>Type of Expenditure</b>	<b>Amount</b>
Real estate sales, appraisals	\$9,293.83
Deposition expenses	\$2,466.15
Document imaging	\$10,538.22
Bank fees, refused deposit	\$108.07
Administrative expenses	\$55.00
Living allowance	\$830.00
<b>Total</b>	<b>\$23,291.27</b>

Professional fees were also paid during the quarter: \$122,234.24 to Lone Peak Valuation Group for forensic accounting, \$47,500.58 to Parr Brown Gee & Loveless for legal fees, and \$61,986.00 to Klein & Associates for the Receiver and his staff.<sup>90</sup>

C. Bank Account Balances. The following table shows the balance of funds in the Receivership bank accounts at Wells Fargo Bank as of June 30, 2019:

<b>Bank Account Balances</b>	
<b>Account</b>	<b>Amount</b>
Checking account	\$14,338.67
High yield savings <sup>91</sup>	\$1,405,285.13
<b>Total</b>	<b>\$1,419,623.80</b>

D. Disputed funds. The Second Quarterly Status Report identified \$100,000.00 in disputed funds from Snell & Wilmer's trust account, approximately \$735,000.00 in Nelson

<sup>90</sup> The fee application is at Docket No. 651, filed May 16, 2019. The order approving the fee application is at [Docket No. 688](#), filed Jun. 6, 2019.

<sup>91</sup> This includes a \$1,000.00 bid deposit being held, but which does not yet belong to the Receivership Estate.

Snuffer's trust account, and around \$298,000.00 seized by the Receiver from bank accounts in the name of XSun, Solco, and Cobblestone. From the forensic accounting and the review of records obtained during the Reporting Period, the Receiver has learned significantly more about each of those amounts.

1. Snell & Wilmer Retainer. The Receiver determined that the funds paid to Snell & Wilmer as a retainer for filing the bankruptcy petition for RaPower did not come from Glenda Johnson, as Snell & Wilmer believed. The funds that Nelson Snuffer sent to Snell & Wilmer most likely were from the XSun retainer account.

2. Nelson Snuffer Trust Account. The Receiver believes the \$735,202.22 that Nelson Snuffer revealed it is still holding is the remnant of \$1,168,000.00 transferred to Nelson Snuffer by XSun and Solco I the next business day after the Court's June 22, 2018 bench ruling that RaPower, IAS, Shepard, and Johnson had been operating a massive fraud. In light of the Court's order to include Solco I and XSun in the Receivership Estate, there is no longer any dispute that these funds are property of the Receivership Estate.<sup>92</sup>

3. Solco I. All of the \$168,000.00 in Solco I funds that Glenda Johnson paid to Nelson Snuffer on June 25, 2018 have been spent by Nelson Snuffer. The Receiver doubts that the \$168,000.00 was expended for the benefit only of Solco I.

4. Cobblestone. The funds in the Cobblestone bank account that were seized by the Receiver were funds originating from RaPower and IAS. In light of the Court's

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<sup>92</sup> The Receiver is mindful that an appeal of this ruling has been filed.

order to include Cobblestone in the Receivership Estate, there is no longer any dispute that these funds are property of the Receivership Estate.

5. XSun. Most or all of the funds in XSun bank accounts was transferred there directly from RaPower bank accounts. Thus, these funds derived from Receivership Entities. In any event, XSun's inclusion in the Receivership Estate means there is no longer any dispute that these assets are property of the Receivership Estate. The fact that only \$735,202.22 remains in the Nelson Snuffer trust account indicates that Nelson Snuffer has withdrawn approximately \$235,000.00 of these funds since June 2018. The Receiver doubts that the \$235,000.00 withdrawn was expended for the benefit only of XSun.

## **XII. NEXT STEPS**

The significant next steps in the Receivership will be:

A. Filing Lawsuits. Now having approval from the Court to commence litigation, the Receiver will begin filing lawsuits seeking the recovery of funds and assets that are in the possession of others. The Receiver will consult with counsel for the United States before filing particular lawsuits.

B. Control Over Assets of Affiliates. Now that the Receiver has control over affiliated entities, he will take control of properties owned by the affiliated entities and begin marketing those properties. He will seek recovery of improper transfers of funds by those entities and funds held in attorney trust accounts that originated from these entities.

C. Appeal. The Receiver will respond to the appeal of the Court's order expanding the Receivership Estate to include affiliates.

D. Selling Real Estate. During the coming quarter, the Receiver expects to close on the sales of at least four of the Receivership Estate properties. Other properties, including those in the names of affiliates, will continue to be marketed. If additional properties are recovered, they will be marketed.

E. Cancellation of IAS Shares. In light of the Court granting the Receiver's motion to cancel the outstanding shares of IAS (after the end of the Reporting Period), the Receiver forwarded that information to regulators responsible for overseeing the securities markets to ensure that trading of IAS shares ceased.

F. Purging of Contempt. The Receiver expects to have a continuing role early in the third quarter of providing information to the Court and the United States regarding the extent to which persons held in contempt of Court have purged their contempt and in enforcing contempt orders against the PSTC.

G. Analysis of Stock Sales. When information is obtained from PSTC and Nelson Snuffer regarding past sales of IAS shares, the Receiver will complete an analysis of what shares were sold by insiders after the suit by the United States was initiated and the stock sales proceeds that were received by Nelson Snuffer.

H. Claims Process. The Receiver is mindful of his responsibility regarding creation of a possible claims process.<sup>93</sup> The Receiver does not anticipate there will be sufficient net funds recovered such that the first two distribution priorities will be satisfied. Accordingly, the Receiver does not intend to expend any time structuring or proposing a claims process.<sup>94</sup>

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<sup>93</sup> Order, ¶¶ 88-89.

<sup>94</sup> If there were a radical positive change in prospects for recovery, the Receiver can make a future recommendation regarding a claims process, notwithstanding the expiration of the nine-month deadline set in paragraph 89 of the Order.

### **XIII. CONCLUSION**

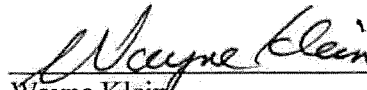
Substantial progress was made during the Reporting Period. Affiliated entities and their assets are now part of the Receivership Estate. Litigation can now be commenced. All the key bank records have been received and are in the final stages of analysis. The depositions of Neldon and Glenda Johnson were taken. Substantial (but likely still incomplete) records have been obtained from the Defendants, respondents, and the PSTC.

This important progress is the result of prodigious efforts by the United States in bringing its successful contempt motion and enormous commitments of time and attention by the Court regarding the motion for contempt. Substantial time has also been devoted by the Receiver to seeking and reviewing information and participating in the contempt proceedings. This progress was materially aided by the Court's resolution of the many and varied motions by the Receiver relating to sales of real estate, sanctions, living allowances, expanding the Receivership Estate, and actions on the publicly traded status of IAS. The burden on the Court will continue to be heavy in view of the litigation to be commenced by the Receiver.

The Receiver is adjusting his priorities to ensure that the immovable deadline of filing recovery actions relating to transfers more than four years ago will not be compromised. With this adjustment, the Receiver believes the objectives of the Receivership are being achieved.



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

  
Wayne Klein  
Receiver

DATED this 14<sup>th</sup> day of July, 2019.

**PARR BROWN GEE & LOVELESS**

/s/ Jonathan O. Hafen  
Jonathan O. Hafen  
Michael S. Lehr  
*Attorneys for Receiver*

**CERTIFICATE OF SERVICE**

IT IS HEREBY CERTIFIED that service of the above **RECEIVER'S THIRD QUARTERLY STATUS REPORT** was electronically filed with the Clerk of the Court through the CM/ECF system on July 18th, 2019, which sent notice of the electronic filing to all counsel of record.

IT IS FURTHER CERTIFIED that, on the same date, by U.S. Mail, first-class, postage pre-paid, I caused to be served the same documents upon the following persons:

R. Gregory Shepard  
858 Clover Meadow Dr.  
Murray, Utah 84123

*Pro se Defendant*

/s/ Michael S. Lehr