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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 FIFTH QUARTERLY  
STATUS REPORT**

*For the period October 1, 2019 to  
December 31, 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 Fifth Quarterly Status Report ("Report") for the period from October 1, 2019 to December 31, 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> A May 3, 2019 order expanded the Receivership Estate to include 13 additional affiliated entities.<sup>3</sup>

The Receiver's efforts during the quarter have focused on obtaining reappointment as Receiver, filing lawsuits seeking the recovery of funds paid out improperly, managing litigation that has been filed, reaching settlements with recipients of funds, seeking to recover Receivership property held by others, reviewing and analyzing additional documents obtained from Receivership Defendants and others, and assisting the United States in its motion seeking additional sanctions for contempt.

## II. REAPPOINTMENT OF RECEIVER

A. Order Reappointing Receiver. On September 5, 2019, the Receiver sought an order reappointing him as Receiver.<sup>4</sup> Obtaining such an order was a prerequisite to the Receiver obtaining jurisdiction over persons living in other states, who improperly had received funds from Receivership Defendants. The Court granted the motion on October 10, 2019.

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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. 636](#), filed May 3, 2019. The Court overruled objections to this order. [Docket No. 718](#), filed Jul. 8, 2019. Defendants have appealed this order.

<sup>4</sup> [Docket No. 761](#), filed September 5, 2019.

B. Additional Notices of Receivership Filed. After being reappointed as Receiver, the Receiver promptly filed notices of receivership in the following 24 additional judicial districts.<sup>5</sup>

Middle District of Alabama	Eastern District of Michigan	Western District of Oklahoma
District of Arizona	Western District of Michigan	Eastern Dist. of Pennsylvania
Eastern District of California	District of Minnesota	Eastern District of Texas
District of Colorado	Northern Dist. of Mississippi	Western District of Texas
District of Columbia	Southern Dist. of Mississippi	Eastern District of Virginia
Northern District of Florida	District of Nevada	Western Dist. of Washington
Southern District of Florida	Southern District of Ohio	Eastern District of Wisconsin
Central District of Illinois	District of Oregon	District of Wyoming

### III. LITIGATION

A. Lawsuits Filed. The Receiver filed additional lawsuits during the Reporting Period, in advance of the October 31, 2019 one-year anniversary of the appointment of the Receiver. The lawsuits, against insiders, attorneys who provided legal services, merchants, and commission recipients, are listed in the table below.

Defendant	Amount	State	Defendant	Amount	State
<b>Insiders</b>					
Hamilton, Monte	8,936	UT	Shepard, Mark	23,309	UT
Hamblin, Roger	481,100	UT	Jameson, Richard	18,942	UT
Pack, Bill	29,105	UT	Peterson, G; Peregrine	88,155	UT
Snow, Stacy Curtis	164,721	UT	Taylor, C; Energizing C.	368,622	UT
<b>Attorneys</b>					
Nelson, Snuffer, Dahle	2,236,574	UT	Gleaves Swearingen	21,419	OR
Hawes, Kurt	25,512	UT	Heideman & Associates	134,099	UT
Reay, Donald	31,658	UT	Snell & Wilmer	160,684	UT
<b>Merchants</b>					
Citibank Visa (Costco)	104,771		Discover Card	342,525	DE
JP Morgan Chase Bank	446,953		Plaskolite, Inc.	512,594	OH
<b>Commission Recipients</b>					
Anderson, Kelvin	19,513	FL	Anderson, Treddis	8,577	MS

<sup>5</sup> These were in addition to the Central District of California and the Northern District of Texas, where notices had been filed previously.

Armand, Jean	13,760	FL		Becker, James	11,290	MI
Bell Energy	35,493	FL		Borden, Michael	10,411	CA
Brittain, Kristi/Dwayne	33,466	TX		Clement, Jason; Suncore	419,315	UT
Coates, Thomas	59,361	PA		Cook, Ryan	10,567	CO
Couch, Jimmy	9,160	TX		Ardell, Korry	43,495	WI

B. Tolling Agreements. The Receiver has entered into nine agreements tolling the statute of limitations so the defendants can obtain counsel and determine whether to enter into settlement agreements with the Receiver. These tolling agreements generally expire in March and April of 2020, but might be renewed.

C. Recovery Litigation to be Heard by Judge Nuffer. The Receiver filed motions to have all the recovery actions brought by the Receiver transferred to Judge Nuffer as the Receivership Court judge.<sup>6</sup> The Receiver's motion was opposed by the Nelson Snuffer law firm on behalf of Randale Johnson and LaGrand Johnson and "on behalf of other future defendants."<sup>7</sup> The Court granted several of the Receiver's separate motions<sup>8</sup> until a General Order was issued that all pending and future cases filed by the Receiver in this matter will be assigned to Judge Nuffer.<sup>9</sup>

D. Answers, Litigation Motions. Most of the litigation is at stages where answers are being filed. In a few instances, the Receiver has filed motions for default after defendants failed to file answers. The Receiver has dismissed one complaint where the defendant demonstrated that the payments to him were for the sale of equipment, not for the payment of commissions.<sup>10</sup>

<sup>6</sup> See, e.g., [Docket No. 736](#), filed July 31, 2019; [Docket No. 763](#), filed September 10, 2019; [Docket No. 789](#), filed October 21, 2019.

<sup>7</sup> [Docket No. 745](#), filed August 8, 2019.

<sup>8</sup> See [Docket No. 787](#), filed October 17, 2019; Case No. 2:19cv623, [Docket No. 14](#), filed October 17, 2019.

<sup>9</sup> General Order No. 19-003 (D. Utah), filed October 18, 2019. Judge Nuffer subsequently denied as moot a pending motion by the Receiver to transfer other cases. [Docket No. 801](#), filed November 19, 2019.

<sup>10</sup> This defendant had failed to respond to a letter from the Receiver inquiring about the purposes of the payment, triggering the Receiver's lawsuit.

In a few instances, the Receiver has filed motions seeking additional time to serve defendants, where the defendants have moved or appear to be avoiding service. A number of defendants are being represented by the law firm Nelson Snuffer, which has filed motions to stay proceedings in the Receiver's lawsuits, pending the results of the appeal.<sup>11</sup> The Receiver has opposed these motions. As of the end of the Reporting Period, the Court has not ruled on these motions.

E. Counterclaims Filed Against Receiver. Four of the insiders sued by the Receiver filed counterclaims against the Receiver. The counterclaims, filed by Glenda Johnson, LaGrand Johnson, Randale Johnson, and Matthew Shepard, alleged that the Receiver violated their constitutional rights by canceling the publicly traded shares of IAS that they held.<sup>12</sup> The Receiver filed motions to dismiss the counterclaims<sup>13</sup> which the Court ultimately granted, ruling that the counterclaims are barred by Supreme Court precedent and the Receivership Order.<sup>14</sup>

F. Appeals. The Receiver is aware of four appeals filed by Defendants in this matter.

1. Receivership Order. Defendants filed two appeals relating to orders of the Court in connection with the asset freeze, judgment, and appointment of the Receiver. These appeals were consolidated before the Tenth Circuit as No's 18-4119 and 18-4150. Oral argument was held on this consolidated appeal on September 25, 2019. A ruling is not expected until mid-year.

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<sup>11</sup> See e.g., Case No. 2:19cv703, [Docket No. 10](#), filed November 21, 2019.

<sup>12</sup> The counterclaims were all filed by Nelson Snuffer in each of the separate lawsuits filed by the Receiver. In its motion to dismiss the counterclaim filed by Glenda Johnson, the Receiver noted that Glenda Johnson was not even an owner of IAS shares at the time the shares were canceled by the Court.

<sup>13</sup> See e.g., *Receiver's Motion to Dismiss Defendant's Counterclaims*, Case No. 2:19cv532, [Docket No. 13](#), filed September 9, 2019.

<sup>14</sup> See e.g., *Memorandum Decision and Order Granting Plaintiff's Motion to Dismiss Defendant's Counterclaims, Klein v. Randale Johnson*, Case No. 2:19cv532, [Docket No. 24](#), filed December 6, 2019.

2. Motion to Dismiss Receiver, Quash Deposition Order. Neldon Johnson filed a pro se notice of appeal of the Court's orders requiring him to be deposed by the Receiver and dismissing Johnson's motion to dismiss the Receiver. The Tenth Circuit dismissed the appeal as a non-appealable interim procedural order.<sup>15</sup>

3. Order Expanding Receivership. Six affiliated entities filed an appeal of the Court's order expanding the Receivership Estate to include affiliates.<sup>16</sup> Appellants filed their opening brief on September 9, 2019. The Receiver filed his brief on November 13, 2019 and appellants filed their reply brief on December 6, 2019. Oral argument has been set for March 11, 2020.

#### IV. SETTLEMENTS

A. First Motion to Approve Settlements. As noted in the Fourth Status Report, the Receiver filed a motion seeking approval to consummate 13 settlement agreements which will result in the recovery of \$270,648.20 into the Receivership Estate. During the Reporting Period, the Court approved this motion.<sup>17</sup> To date, the Receiver has already been paid \$247,948.20 of this amount.

B. Second Motion to Approve Settlements. The Receiver filed a motion to approve a second group of 12 additional settlements which will bring \$1,360,309.00 into the Receivership Estate.<sup>18</sup> After the close of the reporting period, the Court approved the motion.<sup>19</sup> To date the Receiver has been paid \$1,335,859.00 of this amount.

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<sup>15</sup> Order, Case No. 19-4066 (10<sup>th</sup> Cir.) filed June 24, 2019. Johnson's petition for rehearing also was denied.

<sup>16</sup> [Docket No. 698](#), filed June 24, 2019.

<sup>17</sup> [Docket No. 799](#), filed November 19, 2019.

<sup>18</sup> [Docket No. 814](#), filed December 10, 2019.

<sup>19</sup> [Docket No. 832](#), filed January 8, 2020.

C. Third Motion to Approve Settlements. On December 30, 2019, the Receiver filed a third motion seeking approval to consummate three additional settlements which will bring \$443,885.99 into the Receivership Estate. Because payment of the largest of these three settlements will not occur until after Court approval, the Receiver determined to file the motion soon after the agreement was signed.

## V. OTHER ASSET RECOVERY EFFORTS

A. Motions for Turnover of Assets. As noted in prior status reports, the Receiver is engaged in other efforts to recover real property and funds being held by third parties, which the Receiver believes are Receivership Estate assets. These efforts continued during the Reporting Period.

1. Turnover Motion: Glenda Johnson. The Receiver had filed a motion on August 30, 2019 (during the prior Reporting Period) seeking the turnover of fourteen properties and over \$1.4 million in the possession of Glenda Johnson, the wife of Defendant Neldon Johnson.<sup>20</sup> Glenda Johnson opposed the Receiver's motion, asserting that those assets were the product of compensation due to Glenda Johnson for her work on behalf of Receivership Entities.<sup>21</sup> The Receiver filed a reply,<sup>22</sup> which Glenda Johnson moved to strike.<sup>23</sup> This matter is awaiting Court action.

2. Turnover Motion: Greg and Diana Shepard, Diana C. Shepard Living Trust. On October 4, 2019, the Receiver filed a motion seeking a declaration that Greg Shepard's one-half interest in his residence was Receivership Property, notwithstanding

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<sup>20</sup> [Docket No. 757](#), filed August 30, 2019.

<sup>21</sup> [Docket No. 784](#), filed October 11, 2019.

<sup>22</sup> [Docket No. 802](#), filed November 22, 2019.

<sup>23</sup> [Docket No. 805](#), filed November 26, 2019.



that title to the property was held in a trust in the name of Diana Shepard, Greg Shepard's wife.<sup>24</sup> Greg Shepard opposed the motion<sup>25</sup> and the Receiver filed his reply.<sup>26</sup> This motion is ready for Court action.

B. Foreclosure of Phillips Home. On December 18, 2019, counsel for the Receivership (as substitute trustee on the trust deed) conducted a foreclosure sale of the home located in Elk Ridge, Utah, owned by Blain and Lisa Phillips. No other bidders appeared at the auction. The Receiver purchased the property at auction by credit bid. In preparing the required court notices, counsel discovered that the constable had failed to post one of the required notices at the Utah County Recorder's office. Counsel for the Receivership re-noticed the foreclosure auction and conducted the foreclosure sale again on January 28, 2020. No other bidders appeared at the action and the Receiver purchased the property at auction, making a credit bid of \$130,000.

C. Affidavit of Non-Compliance: Nelson Snuffer. On December 13, 2019, the Receiver filed an affidavit of non-compliance with the Court, demonstrating that the law firm Nelson Snuffer was improperly withholding \$735,202.22 in retainer funds belonging to XSun Energy, which funds are property of the Receivership Estate and should be turned over to the Receiver.<sup>27</sup> Nelson Snuffer filed a motion to intervene in the Receivership case, to contest the Receiver's affidavit.<sup>28</sup> The Receiver has opposed the motion.<sup>29</sup> Pursuant to a stipulation filed

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<sup>24</sup> [Docket No. 780](#), filed October 4, 2019.

<sup>25</sup> [Docket No. 797](#), filed November 18, 2019.

<sup>26</sup> [Docket No. 822](#), filed December 20, 2019.

<sup>27</sup> [Docket No. 812](#), filed December 4, 2019.

<sup>28</sup> [Docket No. 820](#), filed December 13, 2019.

<sup>29</sup> [Docket No. 826](#), filed December 27, 2019.

with the Court in January, 2020, the funds have been delivered to the Receiver pending a final decision by the Court. This will be discussed in more detail in the next status report.

D. Motor Vehicles. In connection with the United States' motion for additional sanctions for continuing contempt (discussed below)<sup>30</sup> the Court directed counsel for Neldon Johnson and counsel for the United States to meet and confer in an attempt to reconcile the vehicle list contained in Neldon Johnson's declaration with the list in the United States' reply.<sup>31</sup> The Receiver and counsel for Neldon Johnson exchanged documents and conferred in an effort to reach a common understanding as to vehicles that are, or have been, in the control of Neldon Johnson.<sup>32</sup> The Receiver and Johnson's counsel made great progress in identifying vehicles under the control of Neldon Johnson at one time and the current location of vehicles still under his control. The Receiver prepared a summary listing the following four categories of vehicles:

1. No Dispute/Reconciled. The three aircraft once under Johnson's control have all been accounted for and the Receiver took possession of the two remaining aircraft; there are no unresolved issues with vehicles in this category.

2. Vehicles in Acknowledged Possession of Neldon Johnson. Neldon Johnson acknowledges possession of 18 vehicles that are titled in his name.<sup>33</sup> The Receiver has requested that Neldon Johnson indicate whether he is willing to turn over these vehicles to the Receiver. As of the end of the Reporting Period, Johnson has not responded.

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<sup>30</sup> [Docket No. 754](#), filed August 2, 2019.

<sup>31</sup> [Docket No. 803](#), filed November 25, 2019.

<sup>32</sup> The Receiver undertook this effort with the agreement of the United States and kept counsel for the United States informed of his progress.

<sup>33</sup> These include watercraft, an ATV, and trailers. One, a boat, is reputed to be located on a trailer belonging to Glenda Johnson.

3. Vehicles No Longer in Possession of Neldon Johnson. There are seven vehicles (including recreational vehicles and trailers) which Johnson says are no longer in his possession or control, several of which he asserts were sold or were in non-working condition and junked. The Receiver has requested that Johnson provide additional details about these vehicles, indicating details about the dispositions such as when they were disposed, to whom they were sold or otherwise delivered, and what amounts he received from the dispositions.<sup>34</sup> As of the end of the Reporting Period, Johnson had not provided any of the requested information.

4. Vehicles Titled in Name of and in Possession of Glenda Johnson. Eighteen vehicles have been identified that are titled in the name of Glenda Johnson. These include personal vehicles, trailers, motorcycles, cranes, boom trucks, front-end loaders, and a fire truck. One of the personal vehicles is based at the Sherwood Drive home in Delta, another is located at the home in Payson, and the remaining 16 at the property in Abraham. The Receiver had previously traced the source of funds for the two personal vehicles at the homes in Delta and Payson has being purchased directly from Receivership Entity bank accounts and previously as requested the turnover of those vehicles. She has not turned over either of those vehicles or any others. On December 18, 2019, the Receiver sent a list of all 18 vehicles to counsel for Glenda Johnson requesting information about the dates the vehicles were purchased, the identity of the sellers of the

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<sup>34</sup> The Receiver acknowledges the possibility that Johnson will not have records of or recall the details of the dispositions so the Receiver indicated a willingness to have Johnson affirm that the recipients of these vehicles were not relatives or other insiders.

vehicles, and the prices paid for those vehicles. As of the end of the Reporting Period, Glenda Johnson had not provided any of this information to the Receiver.

## **VI. SALES AND MANAGEMENT OF REAL PROPERTIES**

A. Sales of Real Estate in the name of IAS. All six real estate properties that were owned by IAS were sold during the prior reporting period.<sup>35</sup> Attached as Exhibit 1 is a table showing the status of all properties in the Receivership Estate.

B. Marketing the Texas Property. The 626-acre property in Texas that was titled in the name of the N.P. Johnson Family Limited Partnership is now in the Receivership Estate and is being marketed. In July, the Receiver engaged a listing broker to market the property. At the suggestion of the listing broker, the Receiver engaged a surveyor to conduct a survey of the property. That property survey is expected to be completed in January 2020. On December 10, 2019, the Receiver signed a conditional agreement to sell the property for \$400,000. The agreement is conditioned on Court approval and the results of appraisals. The Receiver has identified three appraisers who have agreed to appraise the property. On December 30, 2019, the Receiver filed a motion seeking Court appointment of these appraisers.<sup>36</sup> When the appraisal reports are delivered, the Receiver will file a motion seeking Court approval to consummate the sale, subject to the statutory requirement that public notice be published, giving others an opportunity to submit higher offers.

C. Easement Granted on Texas Property. On November 8, 2019, the Receiver signed an agreement with NuStar Permian Transport and Storage, LLC, granting a permanent easement

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<sup>35</sup> The net proceeds for two of these properties were received during the current Reporting Period.

<sup>36</sup> [Docket No. 829](#), filed December 30, 2019.

to construct a pipeline across a corner of the property—parallel to an existing buried pipeline. NuStar paid the Receivership Estate \$21,848 for the easement, which NuStar represented is the highest rate it has paid for any section of the pipeline being constructed.

Previously, on October 31, 2019, both LaGrand Johnson and Randale Johnson had signed documents agreeing to grant this same easement to NuStar. These documents included “corporate acknowledgments” which were signed under oath, pursuant to which LaGrand Johnson and Randale Johnson affirmed they were owners of the N.P. Johnson Family Limited Partnership and had authority to grant the easement. The easement signed by LaGrand and Randale Johnson would have resulted in payment to them of \$13,655. After receiving the easement documents signed by LaGrand and Randale Johnson, NuStar discovered that the property was under the control of the Receiver and contacted the Receiver. Payment of the higher easement amount was paid to the Receiver and NuStar made no payments to the Johnsons. NuStar sent the Receiver the original easement documents signed by LaGrand and Randale Johnson.

D. Lien Filed by Glenda Johnson. On December 19, 2019, Glenda Johnson filed a notice of lien with the Millard County Recorder on the 15 real properties located in Millard County that are titled in her name. The notice claims that Glenda Johnson imposed a “mechanic’s lien” on the properties on December 16, 2019, in the amount of \$30 million. Glenda Johnson then assigned that lien to Anstram Energy, a company based in the country of Nevis. The lien documents were signed on behalf of Anstram Energy by Preston Olsen, who identified himself as the manager of Anstram. Olsen is a Salt Lake City attorney. The lien notice was notarized by an employee of the Nelson Snuffer law firm. The Receiver believes the assertion of

the mechanic's lien and its assignment to Anstram Energy violates the Receivership Order and constitutes a wrongful lien.

E. Appeal of Tax Valuation for the Tower Site. As noted in the prior status report, the Millard County Board of Equalization granted the valuation appeal filed by the Receiver, reducing the valuation of the previously-sold Tower Site to \$21,000. The buyer of the Tower Site paid the 2019 property taxes on the property, so the title company released to the Receiver the \$1,800 it was holding in escrow for payment of property taxes.

**VII. UNITED STATES' MOTION FOR ADDITIONAL SANCTIONS DUE TO CONTINUED CONTEMPT**

A. Motion for Additional Sanctions. As noted in the prior status report, on August 21, 2019, the United States filed a motion seeking additional sanctions<sup>37</sup> for what it asserts are continued failures by Neldon Johnson, Glenda Johnson, LaGrand Johnson, and Randale Johnson to comply with their obligations under the Corrected Receivership Order. Neldon Johnson filed a response asserting that he is incapable of complying fully with the Corrected Receivership Order, so additional sanctions are inappropriate.<sup>38</sup> Glenda Johnson, LaGrand Johnson and Randale Johnson also filed an opposition to the motion.<sup>39</sup> The United States filed a reply, supported by the Receiver,<sup>40</sup> and a request to submit for decision.<sup>41</sup>

B. Order Setting Hearing, Requiring Delivery of Documents. On November 25, 2019, the Court issued an order setting a hearing date on the United States' motion, requiring the Johnsons to deliver documents to the Receiver, setting a date to take sworn testimony from each

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<sup>37</sup> [Docket No. 754](#), filed August 21, 2019.

<sup>38</sup> [Docket No. 760](#), filed September 3, 2019.

<sup>39</sup> [Docket No. 765](#), filed September 11, 2019.

<sup>40</sup> [Docket No. 772](#), filed September 25, 2019. The reply included a declaration by the Receiver.

<sup>41</sup> [Docket No. 795](#), filed November 11, 2019.

of the Johnsons, and requiring a ‘meet and confer’ between Neldon Johnson and the United States regarding vehicles that are Receivership property.<sup>42</sup>

C. Documents Delivered by Glenda, LaGrand, and Randale Johnson. On December 5—the date set by the Court—documents were delivered to the Receiver by Glenda Johnson, LaGrand Johnson, and Randale Johnson. Glenda Johnson delivered 478 pages of documents, Lagrand Johnson delivered 72 pages of documents, and Randale Johnson delivered 4,244 pages of documents (in addition to some video files that did not have document numbers). Some of the documents duplicated documents previously delivered to the Receiver but some of the documents had not previously been turned over.

D. Neldon Johnson Obligations. Neldon Johnson delivered no additional documents. No documents that Neldon Johnson previously had claimed were in the possession of third parties were delivered to the Receiver and Neldon Johnson provided no information about his efforts to recover Receivership records in the possession of third parties. Neldon Johnson did not file a required document specifying the scope of the QuickBooks records referenced in his August 2, 2019 declaration.

E. Documents Held by Third Parties. At the suggestion of the Court, the United States issued a subpoena to Gary Peterson, the former accountant for IAS. The United States also had conversations with, and sent correspondence to, Now CFO and Cadence Group, requesting the delivery of Receivership records in their possession. The results of these recovery efforts will be discussed in the next status report.

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<sup>42</sup> [Docket No. 803](#), filed November 25, 2019. The initially-scheduled hearing date of December 13, 2019 was postponed to January 24, 2020 and then postponed again to February 25, 2020. The results of the vehicle reconciliation meet and confer is discussed above in Part V.D.

F. Boxes in Possession of Nelson Snuffer. The order also required the turnover of 13 boxes in the possession of Nelson Snuffer.<sup>43</sup> Nelson Snuffer filed a motion to retain these records.<sup>44</sup> The Receiver opposed the motion<sup>45</sup> and Nelson Snuffer replied.<sup>46</sup> On December 30, 2019, the Court denied Nelson Snuffer's motion and directed that the boxes be delivered to the Receiver by January 10, 2020.<sup>47</sup>

G. Source of Funds Declaration. On December 3, 2019, Nelson Snuffer filed a declaration signed by Neldon Johnson disclosing the source of the funds that Nelson Snuffer has used in filing appeals on behalf of Receivership Defendants and affiliated entities.<sup>48</sup> The declaration revealed that \$300,000 that Nelson Snuffer received from Robert Johnson was the source of the funding for appeals and that Nelson Snuffer has performed additional legal work for the Johnsons, which payment obligation remains outstanding. The Receiver believes the impetus for the filing of this declaration was the United States' motion for additional sanctions because Nelson Snuffer had made legal filings without disclosing the source of funds for those filings as required by the Corrected Receivership Order.<sup>49</sup>

H. Evidences of Continued Contempt. At the January 23, 2020 depositions the Receiver and the United States addressed the following:

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<sup>43</sup> See [Docket No. 801](#) at ¶ 1.

<sup>44</sup> [Docket No. 808](#), filed December 2, 2019.

<sup>45</sup> [Docket No. 817](#), filed December 12, 2019.

<sup>46</sup> [Docket No. 824](#), filed December 23, 2019.

<sup>47</sup> [Docket No. 828](#), filed December 30, 2019. The boxes of documents were delivered by the deadline.

<sup>48</sup> [Docket No. 810](#), filed December 3, 2019.

<sup>49</sup> See Corrected Receivership Order at ¶ 10. Notwithstanding the belated submission of this declaration, the Receiver believes the submission does not "identify[ ] the source of the funds for the filing[s] or submission[s] in sufficient detail to show that the funds are not Receivership Property or otherwise derived from the solar energy scheme." *Id.* In fact, the funds Robert Johnson sent to Nelson Snuffer were paid to Robert Johnson by IAS days before the Court ruled that Receivership Defendants were committing a massive tax fraud.



1. Prior Examples of Continued Contempt. This includes conduct identified in the United States' August 21, 2019 motion;
2. New Examples of Continued Contempt. This includes additional instances of contemptuous conduct discovered subsequent to the filing of the motion, such as:
  - a. Granting Easement. LaGrand and Randale Johnson's efforts to be paid an easement fee on the Texas property they no longer own or control;<sup>51</sup>
  - b. Wisdom Farms Prototype. Actions by contemnors to take and retain possession of the prototype machine, tools, and equipment constructed by Wisdom Farms Technology Development Group, LLC;<sup>52</sup>
  - c. IAS Corporate Filings. Actions by LaGrand Johnson to renew the corporate status of IAS in November 2019, when he has no authority to act on behalf of the company;<sup>53</sup>
  - d. Newly Disclosed Documents. The disclosure and delivery of documents to the Receiver in December 2019, that should have been delivered to the Receiver immediately after his appointment, but which had been withheld by contemnors;<sup>54</sup>
  - e. Improper Liens on Real Property. Actions by Glenda Johnson to record invalid liens on real property owned by IAS and sold by the Receiver and

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<sup>51</sup> This was discussed above.

<sup>52</sup> The work by Wisdom Farms was discussed in the previous status report. Neldon Johnson, with help from others, took possession of the prototype from Wisdom Farms on August 13, 2019.

<sup>53</sup> This is discussed below.

<sup>54</sup> These include documents delivered on December 5, 2019 and a January 2013 contract by which Solstice purportedly owes Glenda Johnson \$35 million.

on real property titled in the name of Glenda Johnson that is the subject of a motion for turnover by the Receiver;<sup>55</sup>

f. Equipment Testing in Violation of the Asset Freeze and Receivership Order. Actions taken by one or more of the contemnors in November 2018 showing testing of the solar equipment, which conduct was prohibited by the asset freeze and the Receivership Order;<sup>56</sup>

3. The Receiver expects that substantially similar topics will be addressed at the February 25, 2020 hearing on contempt.<sup>57</sup>

#### VIII. INVESTIGATION

A. Solar Site Testing in November 2018. Among the documents Randale Johnson delivered to the Receiver on December 5, 2019—pursuant to Court order—was a video file showing testing conducted on solar equipment developed by IAS and RaPower. That testing was designed to showcase the ability of the solar towers to track the movement of the sun across the sky. The video included footage of a computer monitor which revealed the testing occurred on November 14, 2018, after the asset freeze and appointment of the Receiver.

B. IAS Corporate Renewal by LaGrand Johnson. Despite the Order removing the authority of anyone other than the Receiver to act on behalf of Receivership Entities, LaGrand Johnson used online tools of the Utah Division of Corporations to renew the corporate status of IAS on November 4, 2019. This action was taken without permission of the Receiver.

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<sup>55</sup> This is discussed above.

<sup>56</sup> This is discussed below.

<sup>57</sup> The January 24, 2020 hearing was rescheduled to February 25, 2020.

C. Solstice Enterprises Contract with Glenda Johnson. In an October 11, 2019 filing with the Court, Glenda Johnson submitted a copy of a contract between her and Solstice Enterprises dated January 18, 2013. That document was not among the documents in the boxes delivered to the Receiver in May 2019.<sup>58</sup> The first remarkable feature of this agreement was that it was a device to transfer large sums of money from RaPower to Glenda Johnson. Under the handwritten agreement, RaPower agreed to pay 81.3% of its revenue to Solstice. Solstice was to use these funds to construct 200 solar towers which would be owned, at least initially, by Glenda Johnson. Solstice then would pay Glenda Johnson \$35 million for the 200 towers (\$175,000 per tower). In other words, RaPower would fund the tower construction, Solstice would erect the towers, and Solstice would pay Glenda Johnson \$35 million for ownership of the towers.

The second remarkable feature of this agreement was that ownership of all lenses installed in the towers were transferred to Solstice, along with ownership of the towers. That means that no solar lenses purchased by customers were ever installed on any solar towers. As such, no customer lenses could be used to generate electricity and no customers would be entitled to any share of revenue from RaPower's sales of electricity. This is directly contrary to what the Receiver believes most lens purchasers were told about lenses they purchased.

D. Disposition of Stock Purchased by RaPower. Records that Pacific Stock Transfer delivered to the Receiver provided insights into the disposition of some of the 6.2 million shares of stock that RaPower purchased from IAS. RaPower turned around and transferred 2.3 million

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<sup>58</sup> Because the document was not among the boxes of documents delivered to the Receiver before the Court-imposed deadline, there is an increased likelihood that the document was created after May 17, 2020.

of those shares to Greg Shepard, Roger Hamblin, Monty Hamilton, and other insiders. In essence, RaPower bought shares and gave them to insiders.

E. IAS Stock Used as Currency. Pacific Stock Transfer records revealed that a million shares of IAS stock were granted to LaGrand Johnson and Randale Johnson in 2010 for their agreement to extend their employment for another year. These enormous stock grants also may have occurred in other years. Documents provided by Randale Johnson showed that IAS planned to give Boulder City, Nevada one million shares of IAS stock as an inducement to enter into a solar energy project with IAS.

F. IAS Had Early Knowledge That its Solar System was Not Commercially Viable. In 2009, IAS hired a consultant to help IAS find technical partners that could address structural and mechanical engineering issues with the solar lenses, find potential investors, meet and interface with utility companies, and identify suppliers for aspects of the IAS solar system. That consultant provided information to the Receiver showing that a steel fabrication company that proposed to build IAS solar towers in California had told the consultant that IAS's tower designs had fatal flaws, the towers could not withstand high wind gusts, and the IAS technology would be economically unfeasible. A supplier of the types of specialty pipes necessary to withstand the heat and pressure IAS needed said the costs would be twice what IAS projected and that the IAS technology would not be cost effective under any scenario. The consultant provided this information to IAS in 2009, yet IAS continued selling lenses and raising funds to build more towers.<sup>59</sup>

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<sup>59</sup> IAS paid only some of the fees owed to the consultant and none of the fees owed to the steel fabrication company and the piping supplier.

**IX. FINANCIAL OPERATIONS OF THE RECEIVERSHIP ESTATE**

A. Receipts and Disbursements. The tables below show the amount and source of funds brought into the Receivership Estate during the quarter and the categories of expenditures:

<b>Revenue into the Receivership Estate</b>	
<b>Source of Revenue</b>	<b>Amount In</b>
Real estate sales proceeds	\$139,948.10
Settlements	\$1,333,519.00
Receivable owed to def.	\$2,000.00
Bank interest	\$6,378.59
<b>Total</b>	<b>\$1,481,845.69</b>

<b>Expenditures</b>	
<b>Type of Expenditure</b>	<b>Amount</b>
Shepard living allowance	\$3,490.00
Document imaging, certif.	\$1,406.03
Administrative expenses	\$71.93
<b>Total</b>	<b>\$4,967.96</b>

Professional fees in the amount of \$204,061.88, covering the period from April through June 2019 were paid during the quarter to the Receiver, his counsel, and the forensic accountants. The Receiver and his counsel submitted a fee application in late December for work performed in the third quarter.<sup>60</sup> That fee application was approved in January and will be discussed in the next status report.

B. Bank Account Balances. The following table shows the balance of funds in the Receivership bank accounts at Wells Fargo Bank as of December 31, 2019:

<b>Bank Account Balances</b>	
<b>Account</b>	<b>Amount</b>
Checking account	\$283,151.92
High yield savings	\$2,734,110.63
<b>Total</b>	<b>\$3,017,262.55</b>

<sup>60</sup> [Docket No. 823](#), filed December 23, 2019.

**X. NEXT STEPS**

The significant next steps in the Receivership will be:

A. Participate in Contempt Proceedings. The Court scheduled proceedings relating to the United States' motion for additional contempt sanctions. The Receiver assisted the United States in preparing for and taking sworn testimony from Neldon Johnson, Glenda Johnson, LaGrand Johnson, and Randale Johnson on January 23, 2020 and will present evidence at an evidentiary hearing in Court on February 25, 2020.

B. File Additional Lawsuits. The Receiver expects to file some additional lawsuits during the upcoming quarter against persons who have signed tolling agreements. The Receiver will continue to consult with counsel for the United States in the lawsuits he files.

C. Pursue Litigation Already Filed. The Receiver will continue litigation proceedings in lawsuits already filed, including providing initial disclosures, reviewing answers filed, and filing and defending against motions. This is expected to consume significant effort over the coming quarters.

D. Negotiate Settlements. The Receiver will continue to negotiate settlements of demands he has made and lawsuits he has filed. This is expected to include review of hardship affidavits and determinations whether to accept installment payments or reduced amounts.

E. Investigation. The Receiver will review the contents of 13 boxes of documents delivered to the Receiver by Nelson Snuffer in January 2020.

F. Asset Recovery. If the Court grants turnover motions the Receiver has filed against Glenda Johnson and the Diana Shepard Trust, the Receiver will market those real estate properties. When foreclosure proceedings are complete on the Phillips property, the Receiver

will market that property. If the Receiver recovers vehicles owned by Neldon Johnson and Glenda Johnson, he will market those vehicles. If the Receiver recovers the prototype equipment built by Wisdom Farms, he will evaluate the best means of maximizing the value of that equipment.

G. Appeal. Oral argument has been scheduled for March 11, 2020 on the appeal of the Affiliates Order. The Receiver will continue to monitor proceedings in the two appeals relating to the Receivership Estate and take any required actions after rulings are issued.

#### **XI. CONCLUSION**

Substantial progress was made during the Reporting Period. The bulk of expected litigation has now been initiated. Substantial funds have been recovered through settlements. Obstruction by Johnson family members and the Nelson Snuffer law firm continues. Nevertheless, the Receiver is able to move forward with his work as a result of enormously helpful efforts by the United States to initiate additional contempt proceedings and because the Court has been ruling on motions and giving direction to the parties in a timely manner.

Some of the future actions of the Receivership will be affected by how the Court rules on motions by the Receiver to recover real estate, vehicles, and funds held by insiders. The amounts to be recovered in pending litigation and the time frame for concluding that litigation depends on how vigorously defendants contest the Receiver's complaints.

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



Wayne Klein  
Receiver

DATED this 30<sup>th</sup> day of January, 2020.

**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 FIFTH QUARTERLY STATUS REPORT** was electronically filed with the Clerk of the Court through the CM/ECF system on January 30th, 2020, which sent notice of the electronic filing to all counsel of record.

/s/ Michael S. Lehr