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**UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

RAPOWER-3, LLC; INTERNATIONAL
AUTOMATED SYSTEMS, INC.; LTB1,
LLC; R. GREGORY SHEPARD; NELDON
JOHNSON; and ROGER FREEBORN,

Defendants.

**REQUEST TO SUBMIT FOR DECISION
OR DIRECTIONS FROM THE COURT
ON PREPARING A PROPOSED ORDER
ON TURNOVER**

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

District Judge David Nuffer

Pursuant to DUCivR 7-3, R. Wayne Klein, the Court-Appointed Receiver (the “Receiver”) hereby files this Request to Submit for Decision for the Receiver’s Ex-Parte Declaration of Non-Compliance against Glenda Johnson (“Affidavit of Non-Compliance”).¹ In support the Receiver states the following:

1. During the course of the January 23, 2020 evidentiary hearing and the February 25, 2020 contempt hearing, testimony was adduced and exhibits were received regarding liens

¹ [Docket No. 888](#), filed March 20, 2020.

recorded by Glenda Johnson against properties listed in the Corrected Receivership Order located in Millard County, Utah, Payson, Utah, and Howard County, Texas. These liens include:

- a. Tower Site Lien: A lien in the amount of \$9 million filed by Glenda Johnson on August 15, 2019 against the Tower Site in Millard County, Utah (“Tower Site Lien”);²
- b. Millard County Lien. A lien in the amount of \$30 million filed by Glenda Johnson on December 19, 2019 against 15 properties titled in the name of Glenda Johnson in Millard County, Utah;³
- c. Payson Lien. A lien in the amount of \$2 million filed by Glenda Johnson on December 19, 2019 against a property in Payson, Utah titled in the name of Glenda Johnson;⁴ and
- d. Texas Lien. A lien in the amount of \$10 million filed by Glenda Johnson on January 14, 2020 against property in Howard County, Texas titled in the name of the N.P. Johnson Family Limited Partnership.⁵

2. At the February 25, 2020 hearing, the Court indicated it intended to address the Millard County Lien in connection with the Receiver’s turnover motion relating to properties held in the name of Glenda Johnson (“Motion for Turnover”).⁶

3. The Motion for Turnover, however, did not address the liens because three of the

² See *id.* ¶¶ 9, 20-21, 24. The Tower Site Lien was identified as Exhibit B to the Affidavit of Non-Compliance.

³ Exhibit 2160, admitted at the February 25, 2020 hearing. These include 11 Millard County properties identified in the Receiver’s Motion for Turnover, described below, and another four properties that are the subject of separate litigation by the Receiver against Glenda Johnson. The Millard County Lien is also identified as Exhibit A in the Affidavit of Non-Compliance.

⁴ This lien was marked at the contempt hearing as Exhibit 2170. It is also identified as Exhibit C in the Affidavit of Non-Compliance and described therein at ¶¶ 20-21.

⁵ This lien was marked at the contempt hearing as Exhibit 2171. It is identified as Exhibit D in the Affidavit of Non-Compliance and described therein at ¶ 24.

⁶ *Id.* ¶ 21 fn. 26 (citing Feb. 25, 2020 Tr. 127:15-127:20.)

liens were recorded after the Motion for Turnover was filed and the fourth lien was on property that had already been sold by the Receiver.

4. On March 20, 2020, the Receiver filed the Affidavit of Non-Compliance pursuant to paragraph 43 of the Corrected Receivership Order.⁷ The Affidavit of Non-Compliance addresses the three non-expired liens and a lawsuit filed by Glenda Johnson against the buyer of the Tower Site,⁸ in violation of the Corrected Receivership Order.

5. No response or opposition was filed to the Affidavit of Non-Compliance and none was allowed under paragraph 43 of the Corrected Receivership Order.⁹

6. On April 23, 2020, the Court entered a docket text order granting the Motion for Turnover and instructing the Receiver to prepare a proposed order with detailed findings and conclusions.¹⁰ The docket text order did not discuss resolution of the liens filed by Glenda Johnson.

7. No hearing was requested on the Affidavit of Non-Compliance.

8. The Affidavit of Non-Compliance is ripe and the Receiver requests that the Court order the relief requested in the Affidavit of Non-Compliance relating to the outstanding liens and the lawsuit filed by Glenda Johnson against the buyer of the Tower Site or provide guidance to the Receiver if the Court desires the Receiver to include a mandate to release the liens and dismiss the lawsuit as part of the proposed order granting the Motion for Turnover.

A proposed order is submitted herewith. The proposed order grants the relief requested in the Affidavit of Non-Compliance and, in addition, requires Glenda Johnson to release the lien on

⁷ *Id.*

⁸ *Id.* ¶¶ 10-19. The lawsuit was filed after the Tower Site Lien had expired.

⁹ See [Docket No. 491](#) ¶ 43 (stating that affidavits may be failed ex-parte unless the affidavit is directed to a Receivership Defendant.)

¹⁰ Docket No. 916.

the Millard County Properties.

DATED this 29th day of April, 2020.

PARR BROWN GEE & LOVELESS

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

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the above **REQUEST TO SUBMIT FOR DECISION** was electronically filed with the Clerk of the Court through the CM/ECF system on April 29, 2020, which sent notice of the electronic filing to all counsel of record.

/s/ Michael S. Lehr