
**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

UNITED STATES OF AMERICA,

Plaintiff,

v.

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

Defendants.

**ORDER RE: AFFIDAVIT OF NON-
COMPLIANCE AGAINST GLENDA
JOHNSON**

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

District Judge David Nuffer

R. Wayne Klein, the Court-Appointed Receiver (“Receiver”), filed an Affidavit of Non-Compliance against Glenda Johnson pursuant to paragraph 43 of the Corrected Receivership Order seeking an order requiring the dismissal of a lawsuit and the release of two liens filed by Glenda Johnson.¹ The Court has reviewed the Affidavit of Non-Compliance and considered the testimony, exhibits, and arguments made during the contempt proceedings on April 26, May 3, and May 28, 2019 and January 23 and February 25, 2020. Based thereon and for good cause appearing, relief relating to property liens requested in the Affidavit of Non-Compliance and in proceedings arising from the United States’ motion for additional contempt sanctions is GRANTED as set forth below and the following facts are entered.

¹ [Docket No. 888](#), filed March 20, 2020. The Receiver sought release of a third lien in connection with the United States’ motion for additional contempt sanctions. [Docket No. 754](#), filed August 21, 2019.

I. Findings of Fact

1. On October 31, 2018, the Court took exclusive possession “of all assets, of whatever kind and wherever situated, of Defendant[] . . . International Automated Systems Inc. (“IAS”) . . .” and appointed Wayne Klein Receiver over the Receivership Estate.²

2. The Corrected Receivership Order authorized the Receiver “to take immediate possession of all real property of the Receivership Defendants”³

Tower Property Lien and Wings West Lawsuit

3. Real property in Millard County, Utah owned by IAS with assessor parcel number HD-4658-1 was specifically identified as property that was under the immediate and exclusive control of the Receiver.⁴ This property is the location of the original solar towers that were constructed by IAS (“Tower Property”).

4. Pursuant to Court authority, the Receiver sold the Tower Property to Wings West L.C. at a public auction on July 18, 2019.⁵ The sale closed on August 5, 2019.⁶ The Sale Order expressly provided: “The sale of the Property [is] free and clear of interests”⁷

5. On August 15, 2019, ten days after the sale closed on the Tower Property, Glenda Johnson filed a lien in the amount of \$9 million against the Tower Property (“Tower Property Lien”).⁸

² Receivership Order, [Docket No. 490](#), filed on October 31, 2018, ¶¶ 2, 3. The Corrected Receivership Order, [Docket No. 491](#), filed on November 1, 2018, corrected formatting errors of the Receivership Order.

³ *Id.* at ¶ 20.

⁴ *Id.* at ¶ 20(w).

⁵ [Docket No. 689](#), filed June 6, 2019.

⁶ See Receiver’s Notice of Sale Results, [Docket No. 743](#), filed August 5, 2019.

⁷ [Docket No. 689](#), filed June 6, 2019.

⁸ See [Docket No. 888](#) ¶¶ 9, 20-21, 24. The Tower Property Lien is included in [Exhibit B](#) to the Affidavit of Non-Compliance as part of the Complaint filed by Glenda Johnson against Wings West described below. [Docket No. 888-2](#).

6. The Tower Property Lien includes an exhibit that states “This was IAS property. The Receiver sold it July 19 at auction 2019. The appeal was to be on September 25, 2019. He is jumping the gun in selling off assets before the appeal is heard.”⁹

7. On February 10, 2020, Glenda Johnson filed a lawsuit against Wings West LC in the Fourth District Court of Utah for Millard County, case number 200700008 (“Wings West Lawsuit”).¹⁰

8. The Wings West Lawsuit seeks to recover \$9 million under the Tower Property Lien.¹¹

Millard County Lien

9. On December 19, 2019, Glenda Johnson filed a lien in the amount of \$30 million against 15 properties titled in her name in Millard County, Utah (“Millard County Lien”).¹²

10. The Millard County Lien states “The receiver Wayne Klein threatens to sell these parcel. The receiver Wayne Klein was appointed by a court order and that order is on appeal. The order is likely to be reversed and the receiver’s authority removed. The receiver is jumping the gun in wanting these assets before the appeal has been decided by the court of appeals.”¹³

11. Glenda Johnson admitted that her purpose in filing the Millard County Lien was to hinder the Receivership.¹⁴

⁹ [Docket No. 888-2](#).

¹⁰ *See* [Docket No. 888-2](#).

¹¹ *Id.*

¹² A copy of the Millard County Lien is attached as Exhibit A to the Affidavit of Non-Compliance and was admitted at the February 25, 2020 hearing as Exhibit 2160. [Docket No. 888-1](#). All 15 Millard County properties were specifically identified in the Corrected Receivership Order. *See* [Docket No. 491](#) ¶ 20.

¹³ [Docket No. 888-1](#).

¹⁴ Jan. 23, 2020 Tr. 162:23-163:1.

12. On April 23, 2020, the Court granted the Receiver's motion for turnover of certain funds and real property titled in the name of Glenda Johnson ("Motion for Turnover").¹⁵ In a forthcoming order, Glenda Johnson will be required to turn over to the Receiver 11 of the 15 Millard County properties to the Receiver.¹⁶

Payson Lien

13. On December 19, 2019, Glenda Johnson filed a lien in the amount of \$2 million against a property in Payson, Utah titled in her name ("Payson Lien").¹⁷

14. The Payson Lien states "The receiver Wayne Klein threatens to sell this parcel. The receiver Wayne Klein was appointed by a court order and that order is on appeal. The order is likely to be reversed and the receiver's authority removed. The receiver is jumping the gun in wanting these assets before the appeal has been decided by the court of appeals."¹⁸

15. Pursuant to the Court granting the Motion for Turnover, Glenda Johnson will be required to turn over the Payson property to the Receiver.¹⁹

Texas Lien

16. On January 14, 2020, a lien in the amount of \$10 million was filed by Glenda Johnson against property in Howard County, Texas titled in the name of the N.P. Johnson Family Limited Partnership ("Texas Lien").²⁰

¹⁵ Docket No. 916.

¹⁶ See *id.* (instructing the Receiver to prepare a proposed order with detailed findings and conclusions granting the motion for turnover).

¹⁷ See [Docket No. 888](#) ¶¶ 20-21. The Payson Lien is attached as [Exhibit C](#) to the Affidavit of Non-Compliance. [Docket No. 888-3](#). The Payson property was listed in the Corrected Receivership Order. [Docket No. 491](#) ¶ 20(y).

¹⁸ [Docket No. 888-3](#).

¹⁹ Docket No. 916.

²⁰ See [Docket No. 888](#) ¶ 24. This lien was marked at the contempt hearing as Exhibit 2171. It is identified as Exhibit D in the Affidavit of Non-Compliance. [Docket No. 888-4](#). The property in Howard County, Texas is listed in the Corrected Receivership Order. [Docket No. 491](#) ¶ 20(cc)-(dd).

17. The Texas Lien states “The receiver Wayne Klein threatens to sell this parcel. The receiver Wayne Klein was appointed by court order and that order is on appeal. The order is likely to be reversed and the receiver’s authority removed. The receiver is jumping the gun in wanting these assets before the appeal has been decided by the court of appeals.”²¹

18. On May 3, 2019, exclusive control over the N.P. Johnson Family Limited Partnership was granted to the Receiver.²²

19. The Receiver did not grant Glenda Johnson the authority to file the Texas Lien in the name of the N.P. Johnson Family Limited Partnership.²³

20. Pursuant to Court authority, the Receiver sold the Howard County, Texas property at a public auction on April 7, 2020.²⁴

The Liens and the Lawsuit Violate the Corrected Receivership Order

21. Glenda Johnson violated the Corrected Receivership Order by filing the Tower Property Lien, Millard County Lien, Payson Lien, Texas Lien, and the Wings West Lawsuit.

22. Specifically, the Corrected Receivership Order restrains and enjoins “all persons receiving notice of this Order . . . from directly or indirectly taking any action or causing any action to be taken without the express written agreement of the Receiver, which would interfere with or prevent the Receiver from performing his duties”²⁵

23. Moreover, The Order specifically prohibits:

Interfere[nce] with the Receiver’s efforts to take control, possession, or management of any Receivership Property. Such prohibited actions include . . . executing or issuing . . . any court attachment, subpoena, replevin, execution, or

²¹ [Docket No. 888-4](#).

²² Docket No. 636, filed May 3, 2019.

²³ [Docket No. 888](#) ¶ 27.

²⁴ Notice of Sale Results, [Docket No. 915](#), filed April 21, 2020.

²⁵ [Docket No. 491](#) ¶ 25.

other process for the purpose of impounding or taking possession of or interfering with or creating or enforcing a lien upon any Receivership Property.²⁶

24. The Corrected Receivership Order also prohibits those with notice of the Order from any actions that would “diminish the value of any Receivership Property,”²⁷ “[i]nterfere with or harass the Receiver,”²⁸ or “[h]inder, obstruct, or otherwise interfere with the Receiver in the performance of his duties.”²⁹

25. Glenda Johnson received notice of the Corrected Receivership Order in 2018.³⁰

II. Order

For the reasons stated above, and in the Affidavit of Non-Compliance, **IT IS HEREBY ORDERED THAT:**

1. Glenda Johnson shall dismiss the West Wings Lawsuit with prejudice within one day of the entry of this order.
2. Glenda Johnson shall release the Payson Lien, the Texas Lien, and the Millard County Lien within three days of the entry of this order.
3. Glenda Johnson is prohibited from asserting any lien against or initiating any litigation in any form relating to any real property identified in the Corrected Receivership Order without prior approval of the Court or express written permission by the Receiver.

²⁶ *Id.* at ¶ 35(a).

²⁷ *Id.* at ¶ 35(c).

²⁸ *Id.* at ¶ 35(d).

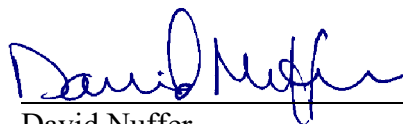
²⁹ *Id.* at ¶ 35(b).

³⁰ *See* Receiver’s Exhibit 2163. This exhibit was received by the Court at the contempt hearing on February 25, 2020 (Tr. 17:9 – 17:13).

4. If Glenda Johnson fails to dismiss the West Wings Lawsuit with prejudice or fails to release the liens as described above, a bench warrant shall be issued for her arrest and her incarceration shall continue until the West Wings Lawsuit is dismissed and the liens are released.

Signed May 5, 2020

BY THE COURT:

A handwritten signature in blue ink, appearing to read "David Nuffer", written over a horizontal line.

David Nuffer
United States District Judge