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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.

**RECEIVER’S REPORT AND
RECOMMENDATION ON
INCLUSION OF AFFILIATES AND
SUBSIDIARIES IN RECEIVERSHIP
ESTATE**

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

District Judge David Nuffer

R. Wayne Klein, the Court-Appointed Receiver (the “Receiver”) of RaPower-3, LLC (“RaPower”), International Automated Systems, Inc. (“IAS”), and LTB1, LLC (“LTB1”) (collectively, the “Receivership Entities”), as well as certain of their subsidiaries and affiliates (“Related Entities”) and the assets of Neldon Johnson (“Johnson”) and R. Gregory Shepard (“Shepard”) (collectively “Receivership Defendants”), hereby submits this Report and Recommendation on Inclusion of Affiliates and Subsidiaries in Receivership Estate (“Report”)

and his Motion and Memorandum in Support for Expansion of Receivership Estate (“Motion”). This Report is to comply with directions from the Court in the Corrected Receivership Order (“Order”)¹ “to investigate all subsidiaries and affiliated entities of the Receivership Defendants to determine whether the assets, property, property rights, or interests of the subsidiaries and affiliated entities derive from the abusive solar energy scheme at issue in this case or from an unrelated business activity.”² Within 120 days after the Order, the Receiver is to “make a recommendation to this Court about whether the Receivership should extend to any of the investigated subsidiaries and affiliates or specific property of those entities.”³ The Order provides that the entities the Receiver is to investigate and about which he is to make recommendations are not limited to the entities listed in paragraph 2 of the Order.⁴

¹ [Docket No. 491](#), filed Nov. 1, 2018.

² [Id.](#), at § 5 (citation omitted).

³ [Id.](#)

⁴ [Id.](#)

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RECEIVER'S REPORT AND RECOMMENDATION ON INCLUSION OF RELATED ENTITIES IN RECEIVERSHIP ESTATE

A. EFFECTS OF DEFENDANTS' FAILURES TO MEET THEIR AFFIRMATIVE DISCLOSURE OBLIGATIONS AND TO COOPERATE WITH THE RECEIVER

1. Defendants Provided Few Records to the Receiver. As detailed in the *Receiver's Initial Quarterly Status Report*,⁵ Defendants have failed to meet their obligations imposed by the Order to disclose financial information; they have failed to cooperate with the Receiver and have provided few records of the Receivership Entities.⁶ These failures include: a) Neldon and Glenda Johnson failing to deliver financial and other records relating to themselves, IAS, RaPower, and other entities created by Johnson,⁷ and records relating to Johnson's assets, b) LaGrand and Randale Johnson failing to deliver financial and other records they possess or control as a result of their roles as officers of IAS, and c) Greg Shepard failing to deliver financial and other records he controls for himself and his entities.⁸ The Receiver notes particularly that Defendants failed to provide a sworn accounting and relevant documentation of all significant expenditures by Defendants and all transfers of assets as required by paragraphs 26 (g) and (h) of the Order. The Receiver expects this information would be extremely helpful in identifying transfers of funds between the Receivership Defendants and the affiliates. Their refusal to provide that

⁵ [Docket No. 557](#), filed Jan. 28, 2019.

⁶ Defendants have provided copies of personal (but not business) tax returns; incomplete lists of assets; compliance verifications required by the Order and the Findings of Fact and Conclusions of Law; corporate documents for the N. P. Johnson Family Limited Partnership, DCL-16A, and DCL16BLT, excerpts from Neldon Johnson's prior bankruptcy; log books for one aircraft; documents relating to Neldon Johnson's divorce (which documents did not reveal the presence of any assets or any financial information), and correspondence from counsel (which transmitted few documents and lacked verifications of the information by the Defendants).

⁷ In its bankruptcy filing, RaPower identified Glenda Johnson as the person in possession of the company's books of account and records. *In re: RaPower-3, LLC*, Case No. 18-24865, Docket No. 11, filed Jul. 13, 2018 at 9.

⁸ See *Receiver's Initial Quarterly Status Report*, [Docket No. 557](#), filed Jan. 28, 2019 at Part V; *United States' Motion to Show Cause*, [Docket No. 559](#), filed Jan. 29, 2019.

information leads the Receiver to be concerned that there have been significant transfers with affiliated entities.

Even when the Receiver asked Defendants to produce these materials (triggering their duty to cooperate with, and not hinder the Receiver),⁹ they provided no accounting records, no bank records¹⁰ no payroll records, and no credit card records. Defendants have not given stock ledgers for IAS or corporate resolutions and minutes for any of the Receivership Entities or affiliated entities. The few corporate records that were provided have been in circumstances where it appears the production was strategically designed to lead to the conclusion that assets had been previously transferred to entities outside the reach of the Receivership Estate.¹¹ The Receiver suspects that the reason he has not been given more of the corporate records of the affiliated entities is because those records would show the close relationship between the Receivership Entities and the affiliates or would show control of the affiliates by Neldon Johnson. Curiously, some of the most useful information Defendants have furnished were not directed to the Receiver at all; they were contained in motions filed with the Court, such as the *Motion to Lift Asset Freeze Order as to Solco 1 and XSun Energy*,¹² which belatedly revealed the location of bank accounts of the Receivership Entities and the existence of funds being held by Nelson Snuffer.

Defendants continue to rebuff the Receiver's request for documents showing the amount Glenda Johnson paid for properties transferred to her by Neldon Johnson and the source of funds

⁹ [Order](#) at ¶¶ 23-24, 28, 35.

¹⁰ On February 8, 2019, Steven Paul did provide the Receiver with a flash drive containing some bank records that he had obtained from counsel for the United States. The flash drive did not contain bank records provided by Defendants.

¹¹ Defendants provided copies of corporate agreements showing Neldon Johnson's assignment of intellectual property in his name to other entities, Johnson's sale of his interests in the N. P. Johnson Family Limited Partnership and DCL—16A to Roger Hamblin, and the N. P. Johnson Family Limited Partnership's transfer of assets to non-U.S. entities.

¹² [Docket No. 509](#), filed Nov. 16, 2018.

used by Glenda Johnson to buy other properties she purchased in her name. When Neldon and Glenda Johnson refused to show up for the depositions they agreed to give, the Receiver was compelled to issue deposition and document subpoenas. The day before the documents were to be produced to the Receiver, both Neldon and Glenda Johnson filed motions seeking protective orders excusing them from the obligation to produce documents.¹³

Similarly, Neldon and Glenda separately filed objections and motions for protective order regarding their deposition testimony just one business day before each of the scheduled depositions.¹⁴ These filings did not excuse or stay their depositions.¹⁵ Both Neldon and Glenda Johnson separately failed to appear at their scheduled depositions.

2. Effect of Non-Cooperation. The Order permits the Receiver to seek additional time to complete his investigation.¹⁶ Under the circumstances, however, the Receiver has determined to proceed with his report at this time for three primary reasons. First, there is little reason to suspect that the Defendants will be more cooperative and forthcoming as time passes. Second, the Receiver believes he has gathered sufficient information to make a recommendation without waiting for Defendants to provide required documents or waiting for the forensic reconstruction of financial records to be completed. For example, the Receiver has obtained information from a variety of sources indicating that particular entities made payments to Neldon Johnson or his sons. The Receiver may not yet know the number and amounts of those payments,

¹³ *Motion for Protective Order for Non-Party Glenda Johnson*, [Docket No. 565](#), filed Feb. 7, 2019; *Neldon Johnson's Pro Se Motion for Protective Order*, [Docket No. 568](#), filed Feb. 7, 2019. The Receiver has opposed these motions. See [Docket No. 579](#), filed Feb. 20, 2019; [Docket No. 580](#), filed Feb. 20, 2019.

¹⁴ *Neldon Johnson's Objection to Deposition (5th Amendment Claim)*, [Docket No. 574](#), filed Feb. 15, 2019; *Glenda Johnson Motion for Protective Order*, [Docket No. 577](#), filed Feb. 19, 2019.

¹⁵ The Receiver responded to both Neldon Johnson's Objection and Glenda Johnson's Motion before their scheduled depositions. See *Receiver's Response to Neldon Johnson's Objection*, [Docket No. 575](#), filed Feb. 18, 2019; Email from Parr Brown to Nelson Snuffer, Feb. 19, 2019. Neither filing by the Johnsons asserted any valid basis to delay or excuse their absence from the depositions. *Id.*

¹⁶ [Order](#) at ¶ 6.

but the facts that such payments were made is sufficient to suggest a close relationship. Third, the total resistance to the Receivership by Defendants, Glenda Johnson, Randale Johnson, LaGrand Johnson, and others impel a recommendation that the Receiver have complete control over all avenues Defendants and Johnson's family members might pursue to avoid the Order's mandates.

While that the Receiver believes he has sufficient information to make recommendations to the Court, he readily acknowledges that there is much information he does not have and that there may be documents or financial records that warrant different conclusions than the ones he has reached. However, because Defendants have failed to make all of the necessary information available to the Receiver during the period in which the Receiver was directed to conduct this investigation, the Receiver believes there should be a presumption in favor of the conclusions he has drawn from the available information. Moreover, any attempts by Defendants to contest the Receiver's recommendation should require the Defendants to: 1) provide persuasive documentation in support of the interpretations they urge, 2) justify why this information was not provided to the Receiver, and 3) demonstrate a willingness and intent to comply with all provisions of the Order (*i.e.*, show clean hands).¹⁷

B. DESCRIPTIONS OF ENTITIES, ROLES, MANAGEMENT, AND FINANCES

This part describes information about each of the affiliates and subsidiaries, as well as several entities not identified in the Order. Information is listed about: a) the organization and current status of each entity, b) the ownership and management of the entity, c) the business operations of the entity, and d) financial information, if known.

¹⁷ Because receiverships operate in equity, Defendants must have clean hands in seeking relief from the Court. *See Wing v. Horne, et al.*, No. 2:08-CV-0717 (Memorandum Decision and Order, Sep. 8, 2009) (D. Utah) (discussion of challenges faced by a receiver).

1. Solco I, LLC (Solco).

a. Company Organization, Status. Solco was formed as a Utah limited liability company (“LLC”) on December 13, 2010. The company was initially established as a member-managed LLC. In 2017, Solco’s Articles of Organization were amended to change the entity to being manager managed.¹⁸ The company’s status is delinquent.¹⁹

b. Ownership and Management. The initial members were LaGrand Johnson, Randale Johnson, and Glenda Johnson. David Nelson (of Nelson Snuffer Dahle and Poulson) was the organizer and LaGrand Johnson was the initial registered agent. The 2017 “Amendment to Certificate of Organization” appointed Neldon Johnson as the manager. Glenda Johnson signed tax forms identifying herself as “Assistant Manager” of Solco. The Solco articles of organization limit the members’ ability to transfer their membership interests to others,²⁰ likely as a device to ensure that control over the entity remained with members of Johnson’s immediate family.

c. Business Operations. The declared business purpose of Solco was the production of alternative electric power. Solco sold solar lenses—the same lenses sold by RaPower and XSun Energy.²¹ Solco’s only business was marketing lenses on behalf of IAS.²² Johnson was a seller of solar lenses for Solco.²³ Solco had a royalty agreement with IAS, requiring Solco to pay royalties to IAS. Under the agreement, 85% of profits were to be paid to IAS, with 15% paid to Solco’s owners.²⁴ Neldon Johnson signed the royalty agreement between

¹⁸ *Amendment to Certificate of Organization of Solco I, LLC*, Aug. 18, 2017.

¹⁹ The company failed to renew its registration that was due January 16, 2019.

²⁰ *Articles of Organization of Solco I, LLC*, Dec. 10, 2010 at Art. X.

²¹ Deposition of Neldon Johnson, Jun. 28, 2017 at 86:15 – 86:17.

²² Deposition of Neldon Johnson, Jun. 29, 2017 at 45:10 – 45:15.

²³ Undated (believed to be around Nov. 1, 2018) Compliance Verification required by [Docket No. 467](#) at V.3.

²⁴ Deposition of Neldon Johnson, Jun. 29, 2017 at 45:18 – 46:1. Solco made no payments to IAS under this agreement.

Solco and IAS—on behalf of both Solco and IAS.²⁵ Johnson testified that the company has sold tens of millions of dollars of lenses.²⁶ Johnson testified that Solco had a contract with a company “back east” where the company paid over \$1 million as a down payment on a project involving three contracts.²⁷ Johnson signed the contract (with the “back east” company) on behalf of Solco.²⁸ The Receiver obtained documents relating to a \$70 million contract involving Solco and an unidentified purchaser for the purchase of 20,000 lenses.²⁹ Johnson signed this document on behalf of Solco.³⁰

d. Financial Activities. At the time the Receiver was appointed, Solco had \$265.11 in a bank account at Bank of American Fork. These funds are in the possession of the Receiver. Based on exhibits admitted during the trial, Solco had three years of significant income—from 2012 to 2014—as show in the table below.³¹ The Receiver does not yet know the sources of the revenue but expects the forensic accounting will show the extent to which the revenue came from sales to outsiders or from inter-entity transfers.

Year	Revenue
2010	\$12,450.00
2011	\$5,200.05
2012	\$1,269,595.55
2013	\$891,859.29
2014	\$1,138,606.87
2015	\$59,630.45
2016	\$57,650.08

²⁵ Deposition of Neldon Johnson, Jun. 29, 2017 at 47:15 – 47:19.

²⁶ Deposition of Neldon Johnson, Jun. 28, 2017 at 84:19 – 84:24. A 2012 Solar Lens Purchase Agreement and related Escrow Agreement indicated Solco would sell 20,000 solar lenses to the unidentified buyer for \$70 million. The buyer was to deposit \$10.5 million into an escrow account at the bank as a down payment. Soco1 0001-0028. The Receiver does not know if this agreement was actually implemented or whether the counterparty was affiliated with Defendants.

²⁷ Deposition of Neldon Johnson, Jun. 28, 2017 at 123:12 – 124:15.

²⁸ Deposition of Neldon Johnson, Jun. 28, 2017 at 123:12 – 124:15.

²⁹ SOLCO1 0025; 0013.

³⁰ It is possible that this \$70 million contract is the same contract Johnson referenced in his June 28, 2017 deposition. Because information about the buyer is redacted in the purchase documents, the Receiver does not know if the buyer is an affiliate or an unrelated third party.

³¹ PLEX00739.

Total	\$3,434,992.29
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2. XSun Energy, LLC (“XSun”).

a. Company Organization, Status. XSun was formed on April 18, 2011 as a Utah LLC. XSun was a manager-managed LLC. The company’s status is active.

b. Ownership and Management. Neldon Johnson is the manager of XSun. Johnson is an employee of XSun³² and the sole decision maker.³³ Glenda Johnson filed federal tax forms identifying herself as “Assistant Manager” of XSun. The Articles of Organization and subsequent filings with the Utah Division of Corporations do not identify any of the members of XSun. The initial registered agent was David Nelson. Defendants aver that 100% of the interests in XSun are owned by Solstice Enterprises, a foreign (Nevis) entity.³⁴

c. Business Operations. XSun’s stated business purpose was the production of alternative electric power. The company sold solar lenses—the same lenses that were sold by Solco and RaPower.³⁵ The company marketed lenses through direct sales.³⁶ It had a contractual relationship with IAS to sell lenses for IAS, with XSun promising to pay royalties to IAS.³⁷ The royalty agreement between XSun and IAS was signed by Neldon Johnson on behalf of both parties.³⁸ XSun is the entity that engaged Nelson Snuffer to file the appeal on behalf of RaPower, IAS, and Neldon Johnson.³⁹ Defendants have represented to the Receiver that XSun has no value, other than the value of the bank account balances that were seized by the Receiver.

³² Deposition of Neldon Johnson, Jun. 8, 2017 at 18:15 – 18:17.

³³ Deposition of Neldon Johnson, Jun. 8, 2017 at 80:2 – 80:7; Deposition of Neldon Johnson, Jun. 29, 2017 at 38:21 – 38:22.

³⁴ *Motion to Lift Asset Freeze Order as to Solco I and XSun Energy*, [Docket No. 509](#), filed Nov. 16, 2018 at 3; Undated (believed to be around Nov. 1, 2018) Compliance Verification required by [Docket No. 467](#) at I.14.

³⁵ Deposition of Neldon Johnson, Jun. 28, 2017 at 86:15 – 86:17.

³⁶ Deposition of Neldon Johnson, Jun. 28, 2017 at 80:8 – 80:22.

³⁷ Deposition of Neldon Johnson, Jun. 29, 2017 at 46:10 – 47:3.

³⁸ Deposition of Neldon Johnson, Jun. 29, 2017 at 47:10 – 47:18.

³⁹ *Motion to Lift Asset Freeze Order as to Solco I and XSun Energy*, [Docket No. 509](#), filed Nov. 16, 2018 at 5.

d. Financial Activities. Based on the information contained in a trial exhibit,

XSun had significant income during 2011 and 2012 as shown in the table below:⁴⁰

Year	Revenue
2011	\$442,355.43
2012	\$660,462.57
2013	\$21,298.73
2014	\$1,170.10
2015	\$813.17
2016	\$788.18
Total	\$1,126,888.18

XSun used this revenue to make payments to Neldon Johnson and to members of his family. Neldon Johnson reported on his 2012 tax returns that he and Glenda Johnson received \$2,125,910 from XSun Energy for the sales of lenses.⁴¹ Johnson's counsel admitted that XSun also made payments to LaGrand and Randale for work they performed for XSun.⁴² XSun paid \$23,000 to a Linda Johnson in 2012.⁴³

XSun opened a savings account at Wells Fargo bank on January 10, 2012 with \$100. Additional monthly deposits of \$100 were made through June 2010, giving the account a June 30, 2012 balance of \$600.15 (with accumulated interest). On July 23, 2012, Glenda Johnson deposited \$1,498,150.85 in this account. These funds came directly from the RaPower bank account at Zions Bank. [In June 2012, Zions Bank told RaPower that RaPower needed to close its accounts at Zions Bank. Zions Bank gave Glenda Johnson a cashier's check for \$1.498 million, made payable to her, representing RaPower's bank account balance at Zions Bank.⁴⁴] At

⁴⁰ PLEX00740.

⁴¹ PLEX00909.0012 (Neldon Johnson Petition for Redetermination of Deficiency before U.S. Tax Court). The Receiver understands that this exhibit was not admitted at the trial.

⁴² Deposition of Neldon Johnson, Oct. 3, 2017 at 219:16 – 219:22.

⁴³ The Receiver does not know if Linda Johnson is related to Neldon Johnson or the reason for XSun's payment to her.

⁴⁴ The Receiver has a copy of the cashier's check issued by Zions Bank with a notation that the money was withdrawn from the RaPower bank account and a copy of the account statements for the XSun account at Wells Fargo showing this deposit. Glenda Johnson submitted a declaration stating that Zions Bank required certain

the time the Receiver was appointed, XSun had \$224,093.73 in a bank account at Bank of American Fork. Those funds are being held by the Receiver. The law firm of Nelson Snuffer also disclosed it is holding \$735,202.22 in its retainer account, which it received from XSun. The Court ruled those funds are subject to the asset freeze until decisions are made on the Receiver's report on affiliates and subsidiaries.⁴⁵

In November 2012, \$241,200 of XSun funds (from the account into which the RaPower money was deposited) were wired to a bank account in the name of "Network International." The Receiver has so far been unable to determine the purpose of this payment.⁴⁶

3. Cobblestone Center, LC.

a. Company Organization, Status. Cobblestone was formed on December 9, 2002, initially as a Nevada limited company. It is manager managed. On February 19, 2014, Cobblestone registered in Utah as a foreign LLC. The company was domesticated to Utah effective January 1, 2017. Cobblestone's status as a foreign (Nevada) corporation expired on January 1, 2017, when the domestication of Cobblestone became effective.⁴⁷ The domesticated Cobblestone's Utah registration became delinquent on January 16, 2019 when it failed to renew its registration.

b. Ownership and Management. When Cobblestone was first formed in Nevada, the manager was RLN Management Company LC, a Utah company with ties to Neldon

businesses associated with the Johnsons to close their accounts at Zions. *Neldon Johnson v. United States of America*, 2:15-cv-00742, [Docket No. 7-1](#), Jan. 6, 2016 at ¶ 6.

⁴⁵ [Docket No. 550](#), filed Dec. 27, 2018.

⁴⁶ The Receiver sent a letter to a Texas company with this name, but that company has not responded. This transfer occurred after Johnson's awareness of the criminal investigation.

⁴⁷ The Nevada Cobblestone had Utah Division of Corporations Entity Number 8952715-1061. On January 1, 2017, when the domestication took effect, the Division of Corporations assigned it Entity Number 8952715-0160.

Johnson.⁴⁸ When Cobblestone registered its foreign (out-of-state) corporation in Utah, David Nelson signed the domestication filings on behalf of the owners (signing as “Attorney for Registrant & Manager”).⁴⁹ Neldon Johnson became the registered agent in Utah and RLN Management Company was again listed as the sole manager. The Utah domestication papers identified Neldon Johnson as a member of Cobblestone. The company’s headquarters is the same as that of IAS.⁵⁰ Neldon Johnson owns one third of this company.⁵¹

Johnson described himself as an employee of⁵² and the sole decision maker for Cobblestone.⁵³ Johnson testified: “I have the right to write a check to whoever I choose to because of my position as manager of Cobblestone Center” and stated he did not have to account to others for payments made by Cobblestone.⁵⁴ He also claimed the sole right to identify which company would operate and maintain the lenses once they were installed⁵⁵ and to decide who owned the towers that Cobblestone constructed.⁵⁶

c. Business Operations. Neldon Johnson testified that Cobblestone manufactured “the solar energy project” and that it employed 30 people at one time.⁵⁷ The company built towers and installed solar lenses on the towers.⁵⁸ According to Johnson,

⁴⁸ RLN Management Company LC was a Utah LLC formed the same date as Cobblestone: December 9, 2002. RLN Management was based in Payson, Utah. David Nelson was its organizer and registered agent. The manager was Stacy Snow, who was an officer of IAS.

⁴⁹ *Foreign Registration Statement (Foreign Limited Liability Company): Cobblestone Centre, L.C.*, Feb. 19, 2014.

⁵⁰ Deposition of Neldon Johnson, Jul. 1, 2017 at 65:10 – 65:24.

⁵¹ Letter from S. Paul to Receiver, Dec. 28, 2018 at 2; deposition of Neldon Johnson, Oct. 3, 2017 at 210:6 – 210:25.

⁵² Deposition of Neldon Johnson, Jun. 28, 2017 at 18:15 – 18:17.

⁵³ Deposition of Neldon Johnson, Jun. 28, 2017 at 74:11 – 74:14.

⁵⁴ Deposition of Neldon Johnson, Oct. 3, 2017 at 211:7 – 211:14.

⁵⁵ Deposition of Neldon Johnson, Jul. 1, 2017 at 34:2 – 34:6.

⁵⁶ Deposition of Neldon Johnson, Jun. 30, 2017 at 95:14 – 95:19.

⁵⁷ Deposition of Neldon Johnson, Jun. 28, 2017 at 53:4 – 53:24. Cobblestone employees cut the rectangular plastic sheets into triangles to fit into the solar towers. *Id.* at 196:21 – 196:25. Elsewhere in his deposition, Johnson described the activity as Cobblestone manufacturing the infrastructure for the lenses. *Id.* at 86:23 – 86:25.

⁵⁸ Deposition of Neldon Johnson, Jul. 1, 2017 at 32:13 – 32:17.

Cobblestone also sold pipe.⁵⁹ In 2010, Cobblestone assumed the role of operating and maintaining the solar lenses, which functions previously had been performed by IAS.⁶⁰ After this, whenever IAS, RaPower, Solstice (or another entity) sold lenses, the selling entity hired Cobblestone to maintain the lenses that were sold and then installed.⁶¹ RaPower paid Cobblestone for services, including erection of solar towers.⁶² Among its duties, Cobblestone applied serial numbers to the lenses.⁶³ IAS instructed Cobblestone to place lenses “in service.”⁶⁴

Its business operations showed close ties to other affiliates. When Neldon Johnson first purchased the Mooney aircraft in February 2017, Cobblestone was initially listed as the owner of the aircraft.⁶⁵ During at least one year, Cobblestone paid property taxes on the Texas property that is owned by the N. P. Johnson Family Limited Partnership (“NPJFLP”)—and which property ostensibly had previously been transferred to Black Night and Starlight.⁶⁶ Defendants reported to the Receiver that Cobblestone “has no assets and is not believed to have any value.”⁶⁷

d. Financial Activities. According to a trial exhibit, Cobblestone had only one year of significant revenue: 2015. The annual revenue is shown in the table below.⁶⁸ As with Solco and XSun, the Receiver is still investigating the extent to which this revenue came from third parties or affiliates.

⁵⁹ Deposition of Neldon Johnson, Oct. 3, 2017 at 216:2 (explaining the reason Cobblestone had paid a commission to his son).

⁶⁰ Deposition of Neldon Johnson, Jun. 28, 2017 at 136:15 – 137:11.

⁶¹ Deposition of Neldon Johnson, Jun. 28, 2017 at 139:1 – 139:8

⁶² Deposition of Neldon Johnson, Jun. 30, 2017 at 84:14 – 84:16; 95:2 – 95:13.

⁶³ Deposition of Neldon Johnson, Jun. 28, 2017 at 202:20 – 202:23.

⁶⁴ Deposition of Neldon Johnson, Jun. 30, 2017 at 112:2 – 112:7.

⁶⁵ *Aircraft Registration Application*, FAA Certified Copies (in possession of Receiver), Feb. 7, 2017. On Apr. 4, 2017, Johnson and the persons from whom he bought the aircraft amended the bill of sale stating that the original bill of sale was erroneous and that Johnson, not Cobblestone, was the purchaser of the aircraft. *Id.*

⁶⁶ PLEX00649; Deposition of Neldon Johnson, Oct. 3, 2017 at 207:14 – 208:19. In this deposition, Johnson refused to answer questions from counsel for the United States about this payment.

⁶⁷ Letter from S. Paul to Receiver, Dec. 28, 2018 at 2.

⁶⁸ PLEX00741.

Year	Revenue
2013	\$65,000.04
2014	\$45,091.81
2015	\$201,832.14
2016	\$2,272.79
Total	\$314,196.78

Cobblestone also received enormous amounts of money from RaPower. The RaPower bankruptcy filing disclosed that between June 29, 2017 and June 29, 2018, RaPower transferred \$1,710,000 to Cobblestone. These payments purportedly were for “research and development expenses.” By November 2018, 96% of this money was spent.⁶⁹ Recipients of Cobblestone funds included Glenda Johnson, LaGrand Johnson, and Randale Johnson, including one \$30,000 check to Randale Johnson as commissions.⁷⁰

4. DCL-16A, Inc.

a. Company Organization, Status. This company was formed November 2, 2004 as a Utah corporation. The original DCL-16A’s registration expired on February 23, 2006. Neldon Johnson formed a new corporation with the same name on November 19, 2008. The articles of incorporation for the successor DCL-16A are essentially the same as the first company with that name. The status of the successor company expired on March 3, 2015.

b. Ownership and Management. DCL-16A’s initial owners were Neldon Johnson, LaGrand Johnson, and Randale Johnson, each owning one third of the company’s shares.⁷¹ Neldon Johnson was its president⁷² registered agent,⁷³ and the sole initial board

⁶⁹ At the time the Receiver was appointed, Cobblestone had two bank accounts at Bank of American Fork holding a combined \$73,548.02. The Receiver is holding these funds.

⁷⁰ Deposition of Neldon Johnson, Jun. 30, 2017 at 214:7 – 214:23; 217:22 – 218:18.

⁷¹ *Share Transfer and Consent Agreement*, Jan. 14, 2011 at 1.

⁷² *Share Transfer and Consent Agreement*, Jan. 14, 2011 at 4.

⁷³ *Articles of Incorporation*, Article IX.

member.⁷⁴ The company's articles of incorporation contain restrictions on transfers of the shares,⁷⁵ presumably to ensure that control of the company remains with family members and trusted associates.

On January 14, 2011, Neldon Johnson sold his one-third interest in DCL-16A to Roger Hamblin, a close associate.⁷⁶ This was six days before Johnson filed for personal bankruptcy.⁷⁷ Hamblin agreed to pay Johnson \$18,500 for the one-third interest in DCL-16A. Hamblin wired this money to Johnson's bank account at Bank of American Fork on January 18, 2011.⁷⁸ The next day, Johnson wired \$59,000 to Snell & Wilmer's trust account, for anticipated work preparing his personal bankruptcy and \$15,000 to Corporate Financial Advisors.⁷⁹ After payment of the funds to Snell & Wilmer and Corporate Financial Advisors, Johnson's bank account balance dropped back to \$160.80.⁸⁰

LaGrand Johnson and Randale Johnson consented to Neldon Johnson's sale of this interest to Roger Hamblin.⁸¹ Notwithstanding this purported sale to Hamblin, Johnson testified in 2017 that he and his sons were the only owners of DCL-16A.⁸² Neldon Johnson indicated he was an employee of DCL-16A.⁸³

⁷⁴ *Articles of Incorporation*, Article X. Neldon Johnson is listed here as president, director, and shareholder.

⁷⁵ *Articles of incorporation*, at Article VII.

⁷⁶ *Share Transfer and Consent Agreement* at 4.

⁷⁷ *In re Neldon P. Johnson*, Case No. 11-20679, Bankr. Utah.

⁷⁸ The wire amount was \$74,000 and included \$55,500 for Hamblin's purchase of Neldon Johnson's interest in NPJFLP, which is discussed below.

⁷⁹ This was for an appraisal of the assets being sold to Hamblin. Corporate Financial Advisors is the official name of Lone Peak Valuation Group, the forensic accountants appointed to assist the Receiver in this matter. This prior work was disclosed to the Court in the *Motion for Order Authorizing Receiver to Employ Accountants*, [Docket No. 496](#), filed Nov. 2, 2018.

⁸⁰ In his bankruptcy filings, Neldon Johnson declared his bank account balance as being \$100. *In re Neldon P. Johnson*, Statement of Financial Affairs, Schedule B, item 2, filed Feb. 3, 2011.

⁸¹ Due to restrictions on the transfers of interests, LaGrand and Randale had to consent to the sale to Hamblin.

⁸² Deposition of Neldon Johnson, Jun. 28, 2017 at 66:8 – 66:12. In his Amended Declaration, Johnson stated he expected to repurchase the interests in DCL-16A and NPJFLP from Hamblin, but never did. [Docket No. 510](#), filed Nov. 16, 2018 at ¶ 9.

⁸³ Deposition of Neldon Johnson, Jun. 28, 2017 at 18:15 – 18:17.

c. Business Operations. The Company's stated primary purpose was to "act as the general partner in a Utah Limited Partnership." DCL-16A was one of two general partners of NPJFLP. This appears to be DCL-16A's sole asset. The assets of NPJFLP—but not the NPJFLP entity—were sold to Black Night Enterprises and Starlight Holdings (discussed below) in October 2012.⁸⁴ In return, Black Night and Starlight issued shares in their entities to DCL-16A and other owners of NPJFLP.⁸⁵ It should be noted that this transfer of NPJFLP assets to the two Nevis entities was a transfer without value to NPJFLP and, therefore, likely a fraudulent transfer. Assets were transferred from NPJFLP to the foreign entities and NPJFLP received nothing in return. Instead, the consideration given by Black Night and Starlight went to DCL-16A, Hamblin, and Randale and LaGrand Johnson.

The 2012 agreement to sell assets to Black Night and Starlight required approval of the two general partners of NPJFLP—LaGrand Johnson and DCL-16A. Neldon Johnson signed the transfer documents on behalf of DCL-16A despite the fact that he purportedly had sold his interest in DCL-16A to Hamblin the year before.

d. Financial Activities. No Defendant or family member has provided financial information to the Receiver on this entity under their affirmative obligations under the Order. Hamblin provided no information about this entity other than a single page from a bank statement showing his payment to Neldon Johnson of the purchase price. In addition, because the Defendants did not provide, by December 31, 2018, an accounting of all transfers to affiliates, the Receiver will have to await the results of the forensic accounting to evaluate the financial transactions between this company and Defendants.

⁸⁴ This transaction occurred five months after Johnson became aware of the criminal investigation.

⁸⁵ *Partnership Asset Purchase Agreement* [Black Night], Oct. 23, 2012 at ¶ 3; *Partnership Asset Purchase Agreement* [Starlight Holdings], Oct. 23, 2012 at ¶ 3.

5. DCL16BLT, Inc.

a. Company Organization, Status. DCL16BLT was a corporation formed in Wyoming on October 8, 2009. Its registration as a foreign corporation in Utah expired on February 25, 2014. On April 7, 2014 DCL16BLT again qualified to conduct business in Utah as a foreign corporation. DCL16BLT was domesticated to Utah on September 18, 2017.⁸⁶ The company's status expired on January 28, 2019.

b. Ownership and Management. The owners of DCL16BLT are Neldon Johnson, LaGrand Johnson, and Randale Johnson.⁸⁷ The Utah qualification form listed Neldon Johnson as the sole officer and director, identifying him as president and director. David Nelson was listed as the registered agent. In the Articles of Domestication Neldon Johnson was listed as the sole officer and director, again identified as president and a director. In his February 3, 2011 bankruptcy filing, Neldon Johnson indicated he had been a director and the registered agent of DCL16BLT since November 17, 2009.⁸⁸ Johnson described himself as an employee of DCL-16BLT.⁸⁹

The Articles of Incorporation listed Neldon Johnson, Randale Johnson, and LaGrand Johnson as officers. Randale Johnson owned 25,000 shares, LaGrand Johnson owned 25,000 shares, and Neldon Johnson owned 100 shares. Even though Randale and LaGrand were designated as officers of the company, they signed a Voting Trust Agreement stating they “do not intend to take an active part in the Company's management”⁹⁰ To accomplish this

⁸⁶ The foreign entity had Entity Number 7521404-0143 (for the first qualification) and Entity Number 9003638-0143 (for the requalified entity). The domesticated entity has Entity Number 9003638-0142.

⁸⁷ Undated (believed to be around Nov. 1, 2018) Compliance Verification required by [Docket No. 467](#) at I.4; *Consent to Action Without a Meeting of the Board of Directors of DCLBLT, Inc.*, Jul. 14, 2011. Neldon Johnson was named president, Randale Johnson was secretary, and LaGrand Johnson was treasurer.

⁸⁸ This information was contained in Neldon Johnson's Compliance Verification. [Docket No. 510](#), filed Nov. 16, 2018.

⁸⁹ Deposition of Neldon Johnson, Jun. 18, 2017 at 18:15 – 18:17.

⁹⁰ *Voting Trust Agreement*, Jul. 14, 2011 (Source: corporate binder delivered to Receiver Feb. 28, 2019.)

objective, they transferred all their stock to Neldon Johnson, giving him “the exclusive right to vote the stock.”⁹¹ As a consequence, Neldon Johnson, who owned 100 shares, controlled all 50,100 shares of the company. A separate shareholder agreement provided that Neldon Johnson would remain the sole director of the company.⁹²

c. Business Operations. DCL16BLT is the sole member of RaPower-3, LLC; it owns RaPower-3, LLC. For tax purposes, RaPower-3, LLC has been designated as a pass-through entity, meaning it is not taxed as a separate entity. Instead, all income and deductions were treated as belonging to DCL16BLT. When the IRS conducted an audit of DCL16BLT, the Receivership Entities paid the legal fees for Paul Jones to represent DCL16BLT in Tax Court proceedings.⁹³

d. Financial Activities. No Defendant or family member has provided financial information to the Receiver on this entity under their affirmative obligations under the Order. In addition, because the Defendants did not provide, by December 31, 2018, an accounting of all transfers to affiliates, the Receiver will have to await the results of the forensic accounting to evaluate the financial transactions between this company and Defendants.

6. LTB O&M, LLC.

a. Company Organization, Status. LTB O&M was formed as a Utah LLC on March 17, 2017. It was a manager-managed LLC. LTB O&M’s corporate status is currently active.

b. Ownership and Management. David Nelson submitted the Certificate of Organization for LTB O&M. The certificate listed Neldon Johnson as the only manager and as

⁹¹ *Voting Trust Agreement*, Jul. 14, 2011 at 2. (Source: corporate binder delivered to Receiver Feb. 28, 2019.)

⁹² *Shareholder Agreement for DCLBLT, Inc.*, Jul. 14, 2011 Source: corporate binder delivered to Receiver Feb. 28, 2019.)

⁹³ Source: Hale and Wood invoices provided to the Receiver on Jan. 3, 2019.

the registered agent. No one other than Neldon Johnson had authority to make decisions on behalf of this company.⁹⁴ Neldon Johnson owns one third of the company.⁹⁵ The other owners appear to be Randale Johnson, and LaGrand Johnson.⁹⁶

c. Business Operations. The company's stated purpose is: "Operation and maintenance of alternative energy systems and components."⁹⁷ Johnson testified the company was formed to operate and maintain energy production.⁹⁸ Defendants reported to the Receiver that "[t]his company has no assets and is not presently conducting business."⁹⁹

d. Financial Activities. The company had no employees, income, bank accounts, or daily operations.¹⁰⁰

7. N.P. Johnson Family Limited Partnership (NPJFLP).

a. Company Organization, Status. NPJFLP was formed on November 2, 2004 as a Utah limited partnership.¹⁰¹ NPJFLP's status expired as of March 3, 2015.

b. Ownership and Management. At the time of its formation, Neldon Johnson was the registered agent and one of two general partners.¹⁰² The second general partner was DCL-16A.¹⁰³ On January 14, 2011—a week before he filed for personal bankruptcy—Neldon Johnson sold his 20% interest in NPJFLP to Roger Hamblin for \$55,000.¹⁰⁴ As part of the

⁹⁴ Deposition of Neldon Johnson, Jul. 1, 2017 at 16:8 – 16:10.

⁹⁵ Letter from S. Paul to Receiver, Dec. 28, 2018 at 2.

⁹⁶ Undated (believed to be around Nov. 1, 2018) Compliance Verification required by [Docket No. 467](#) at I.4.

⁹⁷ *Certificate of Organization*, filed Mar. 17, 2017 at Article II.

⁹⁸ Deposition of Neldon Johnson, Jul. 1, 2017 at 13:7 – 13:16.

⁹⁹ Letter from S. Paul to Receiver, Dec. 28, 2018 at 2.

¹⁰⁰ Deposition of Neldon Johnson, Jul. 1, 2017 at 10:10 – 10:17; 16:4 – 16:22.

¹⁰¹ On November 17, 2004, the NPJFLP filed a *Restated Certificate of Limited Partnership* with revised language on dissolution of the entity.

¹⁰² *Certificate of Limited Partnership*, filed Nov. 2, 2004 at ¶ 1(e). Neldon Johnson signed the Certificate on behalf of himself and DCL-16A.

¹⁰³ Neldon Johnson owned one third of DCL-16A. As discussed in Part B.7., above, Neldon Johnson sold his interest in NPJFLP and DCL-16A to Roger Hamblin a week before Johnson's 2011 bankruptcy.

¹⁰⁴ *Partnership Interest Sale and Transfer Agreement*, Jan. 14, 2011. As described in Part B.4.b., below, the proceeds from this sale were paid to Snell & Wilmer to pay legal fees for the pending bankruptcy and for an appraisal of the assets being sold to Hamblin.

agreement to sell his interest to Hamblin, Neldon Johnson resigned as a general partner of NPJFLP and LaGrand Johnson became a general partner. LaGrand Johnson, Randale Johnson, and David Nelson (as trustee for LaGrand and Randale's trusts) consented to the admission of Hamblin as a new partner.

The Receiver believes the current ownership of NPJFLP is as shown in the table below:¹⁰⁵

Owner	Type	Share	Comment
Neldon Johnson	G.P.	20%	Sold to Hamblin
DCL-16A	G.P.	20%	Sold to Hamblin
Randale Johnson	L.P.	15%	
Randale Johnson Trust ¹⁰⁶	L.P.	15%	
LaGrand Johnson	L.P.	15%	Substitute G.P.
LaGrand Johnson Trust	L.P.	15%	

c. Business Operations. The partnership agreement discloses its purpose as facilitating the transfer of assets from Neldon Johnson to his family members:

N. P. JOHNSON FAMILY LIMITED PARTNERSHIP was created in whole or in part so that during the life of Neldon P. Johnson, he could make completed gifts of present interests to members of his family and others. Unless otherwise stated, this agreement shall be construed in such a manner as best to effect these intents.¹⁰⁷

In furtherance of this objective, Neldon Johnson assigned 14 of his patents and patent applications to NPJFLP. The Receiver has not found any record that NPJFLP paid any consideration to Johnson for these assigned patents and applications. As such, these appear to be

¹⁰⁵ *Amended and Restated Limited Partnership Agreement*, Nov. 15, 2004 at 1. Despite this, Neldon Johnson submitted a Compliance Verification that listed himself as the contact person for DCL-16A and as the owner of an interest in NPJFLP. Undated (believed to be around Nov. 1, 2018) Compliance Verification required by [Docket No. 467](#) at I.8. Johnson later submitted an amended declaration retracting his earlier answers. [Docket No. 510](#), filed Nov. 16, 2018.

¹⁰⁶ David Johnson is the trustee of the Randale P. Johnson Family Trust and the LaGrand T. Johnson Family Trust.

¹⁰⁷ *Amended and Restated Limited Partnership Agreement*, Nov. 15, 2004 at Section 4.8. Similarly, the Certificate of Limited Partnership provides that the partnership is to be dissolved at the death of Neldon Johnson (§ 1(f)(1)). The stated purpose of Neldon Johnson making gifts to his family members suggests that Randale Johnson and LaGrand Johnson did not make material capital contributions to the NPJFLP.

fraudulent transfers that can be recovered as assets belonging to the Receivership Estate.¹⁰⁸ On November 15, 2004 Neldon Johnson assigned to NPJFLP 100 million warrants to purchase IAS stock.¹⁰⁹ Neldon Johnson also assigned to NPJFLP 10 million shares of IAS preferred stock.¹¹⁰

In March 2006, NPJFLP purchased two tracts of real property in Texas: an 18.38-acre parcel with a tax valuation of \$49,950 and a 608.68-acre parcel with a tax valuation of \$608,680. This real estate was recorded in the name of NPJFLP. The Receiver has obtained some preliminary information that at least one of these properties is being used for oil and gas development. The Receivership Defendants have provided no records to the Receiver regarding the purchase or use of these properties. Thus far, the Receiver has been unable to determine the source of funds used to purchase these properties. The Receiver suspects that the NPJFLP had no independent source of funds and that funds from IAS or RaPower (directly or indirectly) were used to purchase these properties. If so, placing ownership of these properties in the NPJFLP was a fraudulent transfer which can be recovered for the Receivership Estate.

In connection with the January 2011 sale of interests in NPJFLP to Hamblin, Neldon Johnson represented that NPJFLP assets were: i) seven patents, ii) two patent applications, iii) 5 million shares of IAS preferred stock, and iv) warrants to purchase 50 million IAS shares.¹¹¹ The agreement between Neldon Johnson and Roger Hamblin did not reference the Texas real estate owned by NPJFLP but the subsequent agreement between NPJFLP and Black Night identified the real estate as an asset of NPJFLP.

¹⁰⁸ To the extent NPJFLP and subsequent transferees of assets of NPJFLP become part of the Receivership Estate, the Receiver would control these assets without having to avoid prior transfers of these assets.

¹⁰⁹ IAS granted these warrants to Neldon Johnson on October 13, 2003 as compensation for patents he assigned to IAS. Randale Johnson signed the warrant agreement on behalf of IAS, granting these warrants to Neldon Johnson. The Receiver does not believe the NPJFLP paid any consideration to Neldon Johnson for the warrants he assigned to NPJFLP.

¹¹⁰ IAS granted these shares to Neldon Johnson on May 14, 2004 in exchange for patents Neldon Johnson transferred to IAS. The agreement granting these shares were signed by Randale Johnson and Neldon Johnson.

¹¹¹ These warrants and preferred shares had been assigned to NPJFLP by Neldon Johnson.

On October 23, 2012, the Texas properties were ostensibly transferred from NPJFLP to Black Night and Starlight, with each getting a 50% undivided interest in the property. However, the real property is still listed as being owned by NPJFLP on the records of the Howard County Texas court clerk. Not only has the property remained in the name of NPJFLP, but Neldon Johnson has continued to exercise actual control over the property and to sign documents on behalf of NPJFLP three times over a four-year period granting easements on the property. Johnson signed all these easements after he had sold his interests in NPJFLP to Hamblin and after NPJFLP had purportedly transferred ownership of these properties to Black Night and Starlight.

In 2013, NPJFLP granted an easement on the Texas property to Power Resources, Ltd.¹¹² This easement also was signed by Neldon Johnson on behalf of NPJFLP. In 2015, NPJFLP granted an easement to Navigator BSG Transportation and Storage, LLC.¹¹³ This easement also was signed by Neldon Johnson as the manager of NPJFLP. On October 31, 2017, NPJFLP granted an easement across a portion of the Texas property to Solaris Midstream MB, LLC. The easement was signed by Neldon Johnson as manager for NPJFLP.¹¹⁴

One of the documents used to effectuate NPJFLP's October 12, 2012 sale of assets to Black Night and Starlight was denominated "Exhibit 4: Consent to Agreement and Sale of Assets." This consent was required to be signed by the limited partners and the general partners. One of the general partners was the entity DCL-16A. Neldon Johnson signed this consent in October 2012 as president of DCL-16A. However, Neldon Johnson had previously

¹¹² *Permanent Easement and Right of Way Agreement*, Recording No. 2014-00001699, Howard County, TX, filed Mar. 7, 2014.

¹¹³ *Right-of-Way and Easement Agreement*, Recording No. 2015-00001788, Howard County, TX, filed Mar. 17, 2015.

¹¹⁴ *Permanent Easement Agreement*, Recording No. 2017-00011855, Howard County, TX, filed Nov. 7, 2017.

signed a document (on January 14, 2011) purporting to sell his interest in DCL-16A to Roger Hamblin.

d. Financial Activities. The capital contributions of each general and limited partner are listed in the partnership agreement as “undetermined.”¹¹⁵ The Receiver has, to date, not found any information indicating that any of the general or limited partners contributed any material amount as a capital contribution.

8. Shepard Energy.

a. Company Organization, Status. This is an assumed name of R. Gregory Shepard. The assumed name was registered on July 14, 2014. Shepard canceled the assumed name’s registration on October 16, 2018.

b. Ownership and Management. Shepard was the sole owner and was the registered agent.

c. Business Operations. The business’ stated purpose was “Selling Renewable Energy Products.”

d. Financial Activities. No Defendant or family member has provided financial information to the Receiver on this entity under their affirmative obligations under the Order. In addition, because the Defendants did not provide, by December 31, 2018, an accounting of all transfers to affiliates, the Receiver will have to await the results of the forensic accounting to evaluate the financial transactions between this company and Defendants.

¹¹⁵ *Partnership Interest Sale and Transfer Agreement*, Jan. 14, 2011 at Section IV.

9. Shepard Global.

a. Company Organization, Status. Shepard Global began as an assumed name for Greg Shepard on December 20, 2010. On September 12, 2012, it converted to a Utah corporation. The corporation was voluntarily dissolved on October 16, 2018.

b. Ownership and Management. The address of the company is Shepard's home. He is listed in filings with the Utah Division of Corporations as the incorporator, registered agent, president, and director. In 2013, Matthew Shepard was added as vice-president and a director and Mark Shepard was added as secretary and a director.

c. Business Operations. The company's articles of incorporation describe its purpose as being "to engage in all forms of renewable energy from funding projects to manufacturing to purchasing land and real estate."¹¹⁶

d. Financial Activities. No Defendant or family member has provided financial information to the Receiver on this entity under their affirmative obligations under the Order. In addition, because the Defendants did not provide, by December 31, 2018, an accounting of all transfers to affiliates, the Receiver will have to await the results of the forensic accounting to evaluate the financial transactions between this company and Defendants.

10. Solstice Enterprises.¹¹⁷

a. Company Organization, Status. Solstice is a corporation formed in Nevis on March 8, 2011.¹¹⁸ It has the same address in Nevis as Black Night and Starlight.

b. Ownership and Management. Solstice has a Utah address of 2730 West 4000 South in Oasis—which is the same address as RaPower and IAS. Neldon Johnson was an

¹¹⁶ *Articles of Incorporation*, Sept. 27, 2012 at Article II.

¹¹⁷ There is a Utah-based entity named Solstice Enterprises, L.C. that is controlled by a Ryan Freeman. This entity appears to have no relationship with the Receivership Defendants.

¹¹⁸ Letter from S. Paul to Receiver, Dec. 28, 2018 at 2.

employee of Solstice.¹¹⁹ LaGrand Johnson appears to be an officer, having signed contracts on behalf of Solstice. According to Defendants, Neldon Johnson originally owned one third of Solstice but sold his interest to Roger Hamblin at the same time that Neldon Johnson sold his interests in DCL-16A and NPJFLP to Hamblin.¹²⁰ Notwithstanding this claim, Johnson's first Compliance Verification stated that he currently holds an interest in Solstice.¹²¹

c. Business Operations. Solstice is the sole owner of XSun.¹²² Solstice claimed that it manufactured and sold "proprietary alternative energy systems."¹²³ Solstice also sold solar lenses.¹²⁴ Solstice paid Cobblestone to operate and maintain the solar towers where Solstice-sold lenses would be placed.¹²⁵ Promissory notes from lens purchasers were to be assigned to Solstice.¹²⁶ Solstice also owns some unspecified "various pieces of equipment located at the warehouse with unknown value."¹²⁷ RaPower assigned 81.3% of its revenues to Solstice, which obligation could be satisfied by RaPower "purchasing power generating equipment and material."¹²⁸ Defendants assert that RaPower still owes significant amounts to Solstice.¹²⁹

¹¹⁹ Deposition of Neldon Johnson, Jun. 28, 2017 at 18:15 – 18:17.

¹²⁰ Letter from S. Paul to Receiver, Dec. 28, 2018 at 2. The sale of Johnson's interests in Solstice could not have occurred at the same time Johnson sold his interests in NPJFLP and DCL-16A because those interests were sold January 14, 2011 and Solstice was not formed until March 8, 2011. Nevertheless, it is possible that Johnson sold his interests in Solstice to Hamblin at some date after March 8, 2011. Defendants represented to the Receiver that Hamblin signed documents on behalf of Solstice after its creation. The Receiver has not seen documents relating to the creation of Solstice, Johnson's ownership interest in Solstice, the transfer of Johnson's interests to Hamblin, or the documents that Hamblin signed on behalf of Solstice.

¹²¹ Undated (believed to be around Nov. 1, 2018) Compliance Verification required by [Docket No. 467](#) at I.12. Neldon Johnson's *Amended Declaration* ([Docket No. 510](#), filed Nov. 16, 2018) did not identify Solstice as an entity whose ownership information (listed in the prior Compliance Verification) was inaccurate. Thus, the only indication that Neldon Johnson is not an owner of Solstice is S. Paul's December 28, 2018 letter that provided no documentary support for his assertion.

¹²² Letter from S. Paul to Receiver, Dec. 28, 2018 at 2.

¹²³ *Equipment Wholesale Agreement*, Aug. 1, 2011 at 1.

¹²⁴ Deposition of Neldon Johnson, Jun. 28, 2017 at 139:3 – 139:8.

¹²⁵ Deposition of Neldon Johnson, Jun. 28, 2017 at 139:3 – 139:8.

¹²⁶ *Equipment Wholesale Agreement*, Aug. 1, 2011 at 3.

¹²⁷ Letter from S. Paul to Receiver, Dec. 28, 2018 at 2.

¹²⁸ Letter from S. Paul to Receiver, Dec. 28, 2018 at 2.

¹²⁹ Letter from S. Paul to Receiver, Dec. 28, 2018 at 2.

d. Financial Activities. No Defendant or family member has provided financial information to the Receiver on this entity under their affirmative obligations under the Order. In addition, because the Defendants did not provide, by December 31, 2018, an accounting of all transfers to affiliates, the Receiver will have to await the results of the forensic accounting to evaluate the financial transactions between this company and Defendants.

11. Black Night Enterprises, Inc.¹³⁰

a. Company Organization, Status. Black Night is a Nevis company.

b. Ownership and Management. The company has six owners, whose ownership is shown on the table below, but all the shares are beneficially owned or controlled by three persons: Roger Hamblin, LaGrand Johnson, and Randale Johnson.¹³¹

Share Owner	# Shares	%
DCL-16A	2,000	20%
Roger Hamblin	2,000	20%
Randale Johnson	1,500	15%
Randale Johnson Trust ¹³²	1,500	15%
LaGrand Johnson	1,500	15%
LaGrand Johnson Trust	1,500	15%

While Neldon Johnson is not identified as an owner or officer of Black Night, he signed documents on behalf of Black Night. The license agreement to allow IAS to use technology owned by Black Night was signed by Neldon Johnson on behalf of both parties.¹³³ Neldon Johnson receives—through Black Night and Starlight—a 10% royalty on gross sales of lenses.¹³⁴

¹³⁰ There is a Utah assumed name registration in the name of Black Night Enterprises controlled by Stephen Rose. This Utah-based entity appears to have no relationship with the Receivership Defendants.

¹³¹ David Nelson is the trustee for the two family trusts of LaGrand Johnson and Randale Johnson.

¹³² David Nelson is the trustee of the Randale P. Johnson Family Trust and the LaGrand T. Johnson Family Trust. While Nelson is the trustee of the trusts, Neldon Johnson's initial Compliance Verification indicated that Randale and LaGrand should be contacted about these trusts, not David Nelson.

¹³³ Deposition of Neldon Johnson, Jun. 29, 2017 at 53:18 – 54:1.

¹³⁴ Deposition of Neldon Johnson, Jun. 29, 2017 at 199:8 – 199:15.

c. Business Operations. As discussed in Part B.7.c., above, Black Night acquired assets from NPJFLP on October 23, 2012. These assets were four patents, IAS shares and warrants, and a 50% interest in Texas real property. The consideration for the acquisition of these assets was for Black Night to issue shares in Black Night to the owners of NPJFLP. It is significant that the shares were issued to the owners of NPJFLP when the assets that were transferred to Black Night came from NPJFLP itself. In other words, the shares went to different persons than the ones who provided the assets to Black Night. The Receiver believes Black Night issued these shares to these new owners for no consideration.

As a result of the patents being assigned to Black Night and then licensed back to IAS and RaPower, the purported technology used by IAS and RaPower was owned by Black Night and Starlight.¹³⁵

d. Financial Activities. Neldon Johnson testified that he received a 10% royalty on gross sales of lenses through Black Night and Starlight.¹³⁶ No Defendant or family member has provided financial information to the Receiver on this entity under their affirmative obligations under the Order. In addition, because the Defendants did not provide, by December 31, 2018, an accounting of all transfers to affiliates, the Receiver will have to await the results of the forensic accounting to evaluate the financial transactions between this company and Defendants.

12. Starlight Holdings, Inc.¹³⁷

a. Company Organization, Status. Starlight is a Nevis company.

¹³⁵ Deposition of Neldon Johnson, Jun. 28, 2017 at 40:16 – 40:22.

¹³⁶ Deposition of Neldon Johnson, Jun. 29, 2017 at 199:8 – 199:15.

¹³⁷ The Receivership Order identified this entity as Starlight Enterprises. The name of the Nevis-based entity associated with the Receivership Defendants is Starlight Holdings. There is a Utah-based assumed name of Starlight Enterprises owned by Crystal Star Smith. The Utah-based entity appears to have no connection with the Receivership Defendants.

b. Ownership and Management. The company has six owners, whose ownership is shown on the table below, but all the shares are beneficially owned or controlled by three persons: Roger Hamblin, LaGrand Johnson, and Randale Johnson.¹³⁸

Share Owner	# Shares	%
DCL-16A	2,000	20%
Roger Hamblin	2,000	20%
Randale Johnson	1,500	15%
Randale Johnson Trust ¹³⁹	1,500	15%
LaGrand Johnson	1,500	15%
LaGrand Johnson Trust	1,500	15%

The agreements to transfer assets from NPJFLP to Starlight were signed by Neldon Johnson, LaGrand Johnson, Randale Johnson, David Nelson as trustee, and Roger Hamblin. Because the technology that RaPower used in its business had been transferred to Starlight, RaPower signed an agreement promising to pay royalties to Starlight. Johnson signed the royalty agreement on behalf of both Starlight and RaPower.¹⁴⁰ Neldon Johnson individually was entitled to receive a 10% royalty on gross sales by RaPower (through Black Night and Starlight).¹⁴¹

c. Business Operations. As discussed in Part B.7.c, above, Starlight acquired assets from the NPJFLP on October 23, 2012. These assets were four patents, IAS shares and warrants, and a 50% interest in Texas real property.¹⁴² As with Black Night, the consideration for the acquisition of these assets was for Starlight to issue shares in Starlight to the owners of NPJFLP. It is significant that the shares were issued to the owners of NPJFLP when the assets

¹³⁸ David Nelson is the trustee for the two family trusts of LaGrand Johnson and Randale Johnson.

¹³⁹ David Johnson is the trustee of the Randale P. Johnson Family Trust and the LaGrand T. Johnson Family Trust.

¹⁴⁰ Deposition of Neldon Johnson, Jun. 29, 2017 at 54:6 – 54:12.

¹⁴¹ Deposition of Neldon Johnson, Jun. 29, 2017 at 199:8 – 199:15.

¹⁴² The assets purchased by Starlight and Black Night do not correlate exactly with the NPJFLP assets identified in Neldon Johnson's sale of his interest to Roger Hamblin.

that were transferred to Starlight came from NPJFLP itself. In other words, the shares went to different persons than the entity that provided the assets to Starlight. The Receiver believes that Starlight issued these shares to these new owners for no consideration.

The fact that the transfers of real property interests were “undivided” interests of 50% of the property means that neither entity could act by itself relating to the property; Black Night and Starlight had to cooperate. Such a structure would make sense only if the owners of Black Night and Starlight were assured of being able to work closely with the other entity—an outcome that was assured if the owners of both entities were identical.¹⁴³

d. Financial Activities. Neldon Johnson testified that he received a 10% royalty on gross sales of lenses through Black Night and Starlight.¹⁴⁴ No Defendant or family member has provided financial information to the Receiver on this entity under their affirmative obligations under the Order. In addition, because the Defendants did not provide, by December 31, 2018, an accounting of all transfers to affiliates, the Receiver will have to await the results of the forensic accounting to evaluate the financial transactions between this company and Defendants.

13. U-Check, Inc. Neldon Johnson formed and controlled a corporation called U-Check, Inc. This entity is not listed in the Order as being subject to the Extended Asset Freeze and was not one of the entities the Receiver was directed to investigate.¹⁴⁵ Nevertheless, the Order authorizes the Receiver to investigate and recommend entities beyond those listed in the Order.¹⁴⁶

¹⁴³ One wonders why Neldon Johnson created two separate entities to hold these assets. Why not just create one entity and put all the assets in that entity? Because Johnson had counsel help him set up these entities, the Receiver assumes there was a purpose. The Receiver is not yet able to guess at that purpose.

¹⁴⁴ Deposition of Neldon Johnson, Jun. 29, 2017 at 199:8 – 199:15.

¹⁴⁵ [Order](#) at ¶ 5.

¹⁴⁶ *Id.*

- a. Company Organization, Status. U-Check was formed December 30, 1996.

The company's corporate status expired on March 24, 2004.

- b. Ownership and Management. Neldon Johnson was the sole incorporator

and the registered agent. Randale Johnson and LaGrand Johnson were officers and Neldon Johnson was a director.

- c. Business Operations. U-Check owned a supermarket in Salem, Utah

containing approximately 285,000 square feet of space. It implemented a self-checkout system

designed by Neldon Johnson.¹⁴⁷ The first circular solar lens array was constructed at this

location.¹⁴⁸ The store was deeded to Johnson's former wife as part of the property settlement in

their divorce.¹⁴⁹ While U-Check transferred its real property and its corporate status has expired,

it continues to own a Cessna Model 414 aircraft.¹⁵⁰

- d. Financial Activities. No Defendant or family member has provided

financial information to the Receiver on this entity under their affirmative obligations under the

Order. While this is not identified as an affiliated entity in the Order, Defendants were obligated

to provide, by December 31, 2018, an accounting of all transfers to entities such as U-Check and

information about assets controlled by Johnson—which would include the aircraft owned by U-

Check. The Receiver will have to await the results of the forensic accounting to identify financial

transactions between this company and Defendants.

C. RECEIVER'S RECOMMENDATION

The Receiver recommends that the 12 affiliated entities identified in the Order, as well as one additional entity, U-Check, Inc., be included in the Receivership Estate as Entity

¹⁴⁷ Deposition of Neldon Johnson, Oct. 3, 2017 at 59:2 - 59:24.

¹⁴⁸ Deposition of Neldon Johnson, Jun. 30, 2017 at 10:18 - 10:23.

¹⁴⁹ Deposition of Neldon Johnson, Jun. 30, 2017 at 16:24 – 17:3.

¹⁵⁰ See https://registry.faa.gov/aircraftinquiry/NNum_Results.aspx?NNumbertxt=N31BS.

Receivership Defendants. The reasons and justifications for this recommendation are described in Part E, Rationales for Recommendation.

The Receiver investigated three additional entities controlled by Receivership Defendants and determined not to recommend their inclusion in the Receivership Estate:

1. RLN Management, L.C. This company was formed by Neldon Johnson in December 2002. Stacy Snow was the initial manager. Johnson owns one third of the company.¹⁵¹ The company was formed at the same time as Cobblestone and acted as its manager. The company's stated purpose was to own and operate communal restaurant facilities. The company's corporate status expired on March 28, 2018. Defendants represented to the Receiver that the "company has no assets and is not presently conducting business."¹⁵² Because the company ceased being the manager of Cobblestone, its stated corporate purpose is unrelated to alternative energy systems, it has no known assets, and its status has expired, the Receiver is not recommending that RLN be included in the Receivership Estate.

2. Theta Energy, LLC. This limited liability company was formed by Neldon Johnson on September 5, 2017. Its certificate of organization lists no company purpose, but the company name indicates it was to operate in the energy field. Neldon Johnson was the initial registered agent. David Nelson was the organizer. According to Johnson, IAS was the sole owner of Theta Energy.¹⁵³ The company's status expired on December 31, 2018. Neldon Johnson represented that the company has never conducted any business.¹⁵⁴ The Receiver has not found any indication Theta conducted business with lens purchasers or held itself out as being related

¹⁵¹ Letter from S. Paul to Receiver, Dec. 28, 2018 at 2.

¹⁵² Letter from S. Paul to Receiver, Dec. 28, 2018 at 2. *See also* Undated (believed to be around Nov. 1, 2018) Compliance Verification required by [Docket No. 467](#) at I.11.

¹⁵³ Undated (believed to be around Nov. 1, 2018) Compliance Verification required by [Docket No. 467](#) at III.1.

¹⁵⁴ Undated (believed to be around Nov. 1, 2018) Compliance Verification required by [Docket No. 467](#) at III.1.

to RaPower or IAS. For these reasons, the Receiver is not asking that Theta Energy be included in the Receivership Estate.

3. MAGR Technologies. This company was formed by Greg Shepard on September 24, 2018—after conclusion of the trial and the Court’s entry of an asset freeze. The company’s stated business purpose was to “engage in all forms of renewable energy.”¹⁵⁵ The officers were Greg Shepard, Matthew Shepard, and Diana Shepard. Greg Shepard owned 98% of the company.¹⁵⁶ The company obtained an employer identification number. A corporate resolution was adopted on October 5, 2018 authorizing the company to “[e]mbark on the selling of solar lenses,” “move forward on selling energy systems,” “work with foreign nations in providing them energy,” and “[d]eveloping home energy systems.”¹⁵⁷ While the timing of the formation of this company and its stated corporate purposes ordinarily would merit inclusion in the Receivership, Shepard voluntarily dissolved the company on October 15, 2018—three weeks after its formation. Shepard represented to the Receiver that the company did not engage in any business during that interregnum. Because it was in existence for such a short time and never engaged in any business, the Receiver is not recommending its inclusion as a Receivership Entity.

D. RECOMMENDATION THAT ADVERSE INFERENCES BE DRAWN

The Order requires Receivership Defendants as well as employees, accountants, and family members to provide records relating to the Receivership Defendants and Receivership assets to the Receiver. The Receivership Defendants and their employees and family members

¹⁵⁵ *Articles of Incorporation*, Sep. 24, 2018 at Article II.

¹⁵⁶ *MAGR Technologies, Inc.: Membership Restriction and Redemption Agreement*, Oct. 4, 2018.

¹⁵⁷ *Corporate Resolution of MAGR Technologies, Inc.*, Oct. 5, 2018.

have provided very little information to the Receiver. These cooperation failures were detailed in the Receiver's *Initial Quarterly Status Report*.¹⁵⁸

In his investigation, the Receiver has been able to obtain information regarding some transactions between the Receivership Defendants and the affiliates and subsidiaries. Counsel for Defendants have provided the Receiver with limited information about certain transactions relating to assignments of patents, sales of Neldon Johnson's interests in entities, and agreements with foreign entities created to take possession of assets. What is notable about the limited information that Defendants have provided is that the information appears to fit a pattern; if there are documents that would show assets have been transferred out of the control of Neldon Johnson or one of the Receivership Entities, those documents have been provided to the Receiver.¹⁵⁹ However, Defendants have not provided information to the Receiver showing that assets in the name of affiliates and subsidiaries were and should be Receivership assets.

For example, Defendants filed a *Motion to Lift Asset Freeze Order as to Solco I and XSun Energy*.¹⁶⁰ The motion was premised on the assertion: "Both Solco I and XSun sold and collected their own sales revenue and kept those funds apart from any of the Defendants."¹⁶¹ The motion avers a lack of nexus between Receivership Defendants and XSun and Solco, with statements such as: "No Defendant owns an interest in XSun or Solco,"¹⁶² "Mr. Johnson has

¹⁵⁸ [Docket No. 557](#), filed January 28, 2019 at Part V. Subsequent cooperation failures by Neldon and Glenda Johnson are documented in Part A.1., above. See also *United States' Motion to Show Cause*, [Docket No. 559](#), filed Jan. 29, 2019.

¹⁵⁹ The Receiver suspects the efforts to transfer assets and create foreign entities to hold assets were not all designed with the Receiver in mind. During the relevant time period, Neldon Johnson also was going through a divorce where he was required to pay \$2.8 million to his former spouse (See *Johnson v. Johnson*, 2010 UT 27, ¶ 2, 234 P.3d 1100), was being audited by the IRS, and was the subject of a criminal investigation. These other events likely were factors in creation of some of the entities discussed in this report and in transactions described herein.

¹⁶⁰ [Docket No. 509](#), filed Nov. 16, 2018.

¹⁶¹ *Id.*, at 5.

¹⁶² *Id.*, at 3.

served as a manager but owns no interest in XSun,”¹⁶³ and “Mr. Johnson served as a manager of Solco I, but does no longer and has no ownership interest in it.”¹⁶⁴ With these premises, Nelson Snuffer argued that the non-refundable legal retainer it received from XSun should not be subject to the asset freeze.¹⁶⁵

In fact, the Receiver has found strong indications that the funds that XSun paid to Nelson Snuffer came directly from RaPower. In a related litigation matter, Glenda Johnson submitted a declaration stating that in 2012 Zions Bank required RaPower to close its bank accounts at Zions Bank.¹⁶⁶ This was during the same time frame that criminal investigators seized records of RaPower, alerting Neldon Johnson to the existence of a criminal investigation of his conduct.¹⁶⁷ Glenda Johnson had Zions Bank issue a cashier’s check to her in the amount of \$1,498,150.85 on June 27, 2012. On July 23, 2012, \$1,498,150.85 was deposited into the savings account of XSun Energy.¹⁶⁸ The latest bank records the Receiver has seen for the XSun account indicated that as of February 1, 2017, \$1,175,262.36 remained in this account. The Receiver expects that he will find that the amount XSun paid to Nelson Snuffer for its retainer fee derived from this \$1.498 million transfer from RaPower to XSun.¹⁶⁹ This is all information that is known to the Receivership Defendants, yet they have not provided these types of records to the Receiver.

¹⁶³ *Id.*

¹⁶⁴ *Id.*, at 4.

¹⁶⁵ *Id.*, at 5. The Court rejected this premise, ordering that the retainer funds continue to be subject to the asset freeze. *Memorandum Decision and Order Denying Motion to Lift Asset Freeze as to Solco I and XSun Energy*, [Docket No. 550](#), filed Dec. 27, 2018.

¹⁶⁶ *Declaration of Glenda Johnson*, Case No. 2:15-cv-00742, [Docket No. 7-1](#), filed Jan. 1, 2016.

¹⁶⁷ The Receiver understands that Greg Shepard’s trial testimony indicated this seizure of records occurred on June 29, 2012.

¹⁶⁸ The account had a balance of \$700.15 prior to this deposit. This deposit was after the date of the seizure of records in connection with the criminal investigation into Neldon Johnson’s conduct.

¹⁶⁹ The Receiver has not yet been able to confirm that the retainer came from this account due to several factors: a) Nelson Snuffer has refused to provide information showing the date, amount, and bank account source of funds deposited into its retainer account, b) the bank records the United States obtained for trial only go through February 2017, and c) Wells Fargo Bank has not yet provided the Receiver with copies of bank statements for the period after February 2017.

In sum, Receivership Defendants have provided some records to the Receiver showing a number of transactions by which funds or other assets have supposedly been transferred to entities other than Receivership Defendants but have refused to provide records that would enable the Receiver to determine whether these transfers of assets were illusory or shams. Disclosures by Defendants have been selective; Defendants have not provided the most relevant information—a list of all transfers by them, as required by Paragraph 26(h) of the Order. Defendants have refused to provide information showing the sources of funds Glenda Johnson used to purchase the 18 properties held in her name (including two transferred to her by Neldon Johnson). Additional instances where the supposed transfers of assets to affiliates and subsidiaries are revealed to be illusory are discussed below.

In light of this pattern of providing the Receiver with documents that suggest assets are outside the Receivership Estate and failing to provide documents that would allow the Receiver to determine whether the transactions are illusory, the Receiver is recommending that all the affiliates and subsidiaries identified in the Order be permanently included as Receivership Entities. If there is information indicating that the information on which the Receiver has based his recommendation is incorrect, that information appears to be in the exclusive possession of Receivership Defendants, and they are not sharing it with the Receiver. Consequently, the Receiver asks the Court to apply an adverse inference that the refusal of Receivership Defendants to provide all records to the Receiver creates a presumption that the unproduced documents would show that the affiliates and subsidiaries should be Receivership Entities. The burden then should shift to Defendants to produce records showing that the affiliates and subsidiaries should not be part of the Receivership Estate.

Moreover, as noted in the Receiver's Initial Quarterly Status Report, the records that Defendants have provided to the Receiver have often contained inconsistent information or information that contradicted other information provided by Defendants. The Receiver does not know whether these inconsistencies are caused by the companies' failures to observe corporate formalities and failing to properly document transactions or whether different documents were and are used for different occasions, depending on what objective the Defendants were trying to achieve. Regardless, Defendants should not be able to rely on certain documents to the exclusion of contradictory documents they themselves created. The Receiver believes the delivery of inconsistent or contradictory documents to the Receiver should shift the burden to Defendants to produce all relevant company records and to demonstrate which records are reliable.

If Defendants fail to produce conclusive—and consistent—documentary evidence that all the transactions were conducted for legitimate business purposes, the documents should be construed against any result that would result in assets being placed out of the reach of the Receiver. Put differently, the Receiver believes that the documents (or the absence of documents) should be interpreted in ways that are the least likely to sanction sham transactions or fraud. If Defendants oppose the Receiver's recommendation, Defendants should be required to explain the business reasons for incorporating entities in Nevis and for ostensibly transferring assets to these foreign-based entities. For example, why would RaPower contract with a Nevis-based entity (Solstice) to manufacture alternative energy systems that were created by Neldon Johnson, were based on technology Johnson developed, and would be marketed to citizens who are subject to U.S. tax laws?

E. RATIONALES FOR RECOMMENDATION

1. Receiver's Rationales. The Receiver's recommendation that Solco I, LLC; XSun Energy, LLC; Cobblestone Centre, LC; DCL-16A, Inc.; DCL16BLT, Inc.; LTB O&M, LLC; N.P. Johnson Family Limited Partnership; Shepard Energy; Shepard Global, Inc.; Solstice Enterprises, Inc.; Black Night Enterprises, Inc.; Starlight Holdings, Inc.; and U-Check, Inc. be permanently made part of the Receivership Estate is based on one or more of five rationales. First, in many cases, these entities have close associations with the original Receivership Entities. They have common officers, directors, members, and managers. Their corporate purposes are similar. There have been numerous and substantial financial transactions between many of the affiliates and IAS or RaPower, indicating common purposes and interdependence.

Second, assets have been transferred to or are being held by the affiliates. In the case of XSun, \$1.498 million of funds belonging to RaPower were taken from a bank account of RaPower and deposited into a bank account of XSun. Patents owned by Neldon Johnson were transferred to NPJFLP, likely for no consideration. Ten million shares of IAS preferred stock and 100,000,000 warrants given to Neldon Johnson were transferred to NPJFLP. Assets of NPJFLP were later transferred to foreign entities, Black Night and Starlight. Consideration for these transfers went to the owners of NPJFLP, not to NPJFLP itself—which appear to be fraudulent (voidable) transfers. A Cessna twin-engine airplane, which might have significant value, is held in the name of U-Check, which was owned and controlled by Neldon Johnson.

Third, in many instances, the only assets of these subsidiaries and affiliates are their ownerships of patents, IAS shares, of bank account balances. In each of these instances, the Receiver believes these assets were transferred to these affiliates in fraudulent or voidable transfers. If the affiliates were not made part of the Receivership Estate and the Receiver brought

successful avoidance actions, the affiliates would end up as empty shells with no assets. In the interim, the persons controlling these affiliates would be expected to use those assets to oppose the Receiver's efforts to recoup those fraudulent transfers. Instead, since the assets tied to RaPower are often the only assets of the entities, it makes more sense to put the entities themselves under the control of the Receiver so there can be no further dissipation of assets. If a third party has a claim for any of these assets, the third party can provide evidence to the Receiver of their claims to the asset and the Receiver can either recognize the claim and release part or all of the asset or the matter can be brought to the Court for resolution. In the interim, there would be no reason to fear dissipation of the assets.

Fourth, the creation of the foreign entities and transactions with them appear to have been designed to put those assets out of the reach of government agencies or the courts. Neldon Johnson testified at trial that contracts between the foreign entities and IAS provide that if IAS is declared insolvent or a government agency causes problems, "the contracts are relinquished back to the foreign company until those issues are resolved."¹⁷⁰

Finally, it is the case that many of these affiliates are defunct and devoid of assets. Bringing those entities into the Receivership Estate is not likely to result in any recovery of assets. However, in light of the quasi-public role the Receiver has in this case, the Receiver believes it will further public policy for him to take control of these entities to ensure that none of them are used by Defendants—or anyone else—to perpetuate what this Court has already declared as a massive fraud. By putting these entities in the Receivership Estate, the entities can be liquidated and dissolved rather than continue in existence and risk being used for improper purposes.

¹⁷⁰ Trial transcript, 2175:4 – 2175:14.

2. Neldon Johnson's Sworn Testimony on Purposes and Uses of Affiliates. Neldon Johnson testified that, in fact, he controls all the entities and that he is able to (and does) decide which of the multifarious entities is used to accomplish his objectives:

Q. . . . I'm not asking who RaPower3 might pay. I'm asking who RaPower does pay.

A. And I haven't made up my mind yet and that's what I'm telling you. And that's my right as the operator and manager of all the companies. I have the right to choose who I purchase and who I designate as the purchaser and who owns those plants. It can be from any company I choose. I can designate Numis, I can – I can designate Blacknight, I can designate Solco1. That's my choice. . . .

I have a right to operate my business the way I choose. . . .¹⁷¹

The Receiver believes that this exclamation by Johnson accurately reflects both his attitude about the roles of these affiliates and the reality of what transactions occurred within and between the affiliated entities. The analysis below identifies numerous instances that are consistent with Johnson's exclamation.

F. TRANSACTIONS BY AFFILIATES AND SUBSIDIARIES

1. Solco I. Solco is closely tied to the Receivership Entities. Neldon Johnson was the manager of Solco at one time. Its owners are Glenda Johnson, Randale Johnson, and LaGrand Johnson. Glenda Johnson was the assistant manager. David Nelson, of Nelson Snuffer, was its organizer. Solco, along with XSun were the entities seeking a tax opinion from the law firm Kirton & McConkie that was promoted in solicitations and on the RaPower website as evidence that the purchase of RaPower solar lenses enabled purchasers to qualify for tax deductions and tax credits.¹⁷² Solco sold solar lenses that were tied to the IAS and RaPower alternative energy scheme. Neldon Johnson sold solar lenses through Solco. Neldon Johnson signed agreements

¹⁷¹ Rule 30(b)(6) deposition of Neldon Johnson, Jun. 30, 2017, 89:18 – 90:6.

¹⁷² Purchasers of lenses from RaPower used the tax memorandum that Solco obtained from Kirton & McConkie in litigation before the Oregon Tax Court, showing that Solco's solicitation of the tax memorandum was used by RaPower customers. *Gregg v. Department of Revenue* (Final Decision, Oct. 13, 2014) Oregon Tax Court.

between IAS and Solco, where Johnson was the signatory for both sides. Johnson also signed, on behalf of Solco, contracts with third parties.

2. XSun Energy. Neldon Johnson was the manager at one time and described himself as the company's sole decision-maker. Glenda Johnson was the assistant manager. David Nelson was the organizer and registered agent for XSun. Along with Solco, XSun sought the legal opinion from Kirton & McConkie to facilitate the marketing of solar lenses. XSun sold solar lenses. Neldon and Glenda Johnson received \$2.1 million in gross sales from XSun during 2012 and XSun paid additional amounts to the sons Randale and LaGrand. At least \$23,000 was paid to Linda Johnson.

The \$1.498 million, representing the amount in RaPower's bank account at Zions Bank on June 27, 2012, was deposited into an XSun bank account. In November 2012, XSun wired \$241,200 of these funds to a bank account in the name of "Network International." The Receiver has so far been unable to determine the purpose of this payment. There is a website for a Texas company having this name that sells oil and gas equipment. Based on real estate records and aerial photographs the Receiver has obtained relating to the Texas real estate owned by NPJFLP, that property appears to have oil and gas operations on the property. Moreover, the easements that NPJFLP granted on the property were given to oil and gas operators. This causes the Receiver to suspect that XSun funds have been used for some type of oil and gas operations on the Texas property. If so, it shows: first that Johnson has used funds from some affiliates to fund activities of other affiliates and second that XSun assets (which derived from RaPower) have been used for the benefit of NPJFLP. If the latter occurred, there were transfers of funds belonging to the Receivership Estate that should be recovered from NPJFLP.

XSun signed a royalty agreement with IAS. Johnson signed the agreement on behalf of both XSun and IAS—showing his authority to act on behalf of XSun. While Defendants contend that Neldon Johnson is not currently a manager of XSun, filings with the Utah Division of Corporations identify Johnson as the manager.¹⁷³

Defendants assert that XSun is owned by Solstice Enterprises¹⁷⁴ but Solstice is not listed as an owner in records filed with the Division of Corporations. Moreover, Defendants have given the Receiver no information identifying the owners of Solstice. It is possible that Johnson is the owner of Solstice—or that he exercises de facto control over its operations. The Receiver simply cannot recommend that XSun not be part of the Receivership Estate without knowing the identity of the owner of Solstice. The Receiver fears that XSun was put under the ownership of foreign-based Solstice to put assets outside the reach of the U.S. government and U.S. courts.¹⁷⁵

XSun’s “selection” of Nelson Snuffer (the firm that represented IAS and RaPower in this litigation) to file the appeal on behalf of IAS and RaPower illustrates the ties between XSun and the Receivership Entities. It would defy logic for XSun to pay more than \$735,000 to Nelson Snuffer to prosecute the appeal of this Court’s judgment against RaPower and IAS if the companies were not intimately related. Because XSun has no assets other than its bank balance (seized by the Receiver), its sole purpose for existing seems to be to fund the appeal for IAS and RaPower.

3. Cobblestone Centre. Neldon Johnson owns one third of this company. His two sons own the remaining two thirds. He is a member and was the sole manager. This company states it is in the energy business. The company has the same address as IAS. Cobblestone built

¹⁷³ Utah Division of Corporations, *Summary of Online Changes* for XSun Energy, Mar. 18, 2016.

¹⁷⁴ *Motion to Lift Asset Freeze Order*, [Docket No. 509](#) at 3.

¹⁷⁵ Neldon Johnson’s trial testimony explicitly admitted this. 2175:4 – 2174:14.

solar towers and installed and maintained lenses in those towers. This made Cobblestone an essential component of the “investment contract” securities that RaPower sold. Under the investment program, the investors (lens purchasers) had a passive role; Cobblestone would manage the lenses for the purchaser and send profits as they were earned.

At least in recent years, its funds came from RaPower. From 2017 to 2018, RaPower sent \$1.7 million to Cobblestone for “research and development expenses.” Cobblestone made large payments to family members. Cobblestone paid property taxes for the Texas property, a payment that benefitted either NPJFLP or Black Night and Starlight—depending on who really owns the Texas property.

It was this entity about which Johnson declared that he could decide to make payments to anyone he wants from this entity because he controls all the entities. Similarly, he testified that regardless of whether the towers were built by Cobblestone or a different entity, Johnson had the right to decide who owned the towers.

4. DCL-16A. Originally, Johnson was a one-third owner of DCL-16A. He signed documents in 2011 purporting to sell his interests in DCL-16A to Hamblin—one week before Johnson filed for personal bankruptcy. Despite purporting to have transferred ownership to Hamblin and to have relinquished control over DCL-16A, Johnson continued to assert control and claim ownership.

In 2017, Johnson claimed he still owned DCL-16A. Johnson also testified that he currently owns 20% of Black Night and Starlight (which is the percentage of Black Night and Starlight that DCL-16A owns).

When NPJFLP transferred its assets to Black Night and Starlight on October 12, 2012, DCL-16A had to give its consent (as one of the general partners of NPJFLP). Neldon Johnson

signed consents to these sales as president of DCL-16A. This demonstrates that Johnson's January 14, 2011 transfer of his interests in DCL-16A to Roger Hamblin was a sham. Twenty-one months after the sale of his DCL-16A interest, Neldon Johnson was still signing documents on behalf of DCL-16A, evincing his actual control over DCL-16A. Moreover, in one of his compliance verifications filed in this case, Neldon Johnson identified himself as the contact person for DCL-16A.¹⁷⁶ If Neldon Johnson truly had conveyed his ownership and management interest in DCL-16A to Hamblin on January 14, 2011, Johnson would have identified Hamblin as the contact person, not himself. If he truly had transferred ownership and management control over DCL-16A to Hamblin in 2011, Johnson would have refused to sign documents giving DCL-16A's consent to the sale of NPJFLP's assets to Black Night and Starlight.

Indeed, if the 2011 sale of DCL-16A to Hamblin was legitimate, NPJFLP's transfer of its assets to Black Night and Starlight is likely void for DCL-16A's lack of consent to the transfers. If Johnson's deposition testimony that he owns 20% of Black Night and Starlight is correct, then he was a party to a fraudulent transfer of NPJFLP assets where the benefit of the transfer went to NPJFLP owners instead of NPJFLP itself.

5. DCL16BLT. This company is the sole member of RaPower. RaPower was a pass-through entity for tax purposes, making DCL16BLT the entity in control of RaPower. And, Neldon Johnson controlled DCL16BLT. He is president and director of the company. The other owners are his sons, Randale and LaGrand. A voting trust agreement between the three gave Neldon Johnson complete control over the company.

¹⁷⁶ Undated Compliance Verification required by [Docket No. 467](#) at I.1. This Compliance Verification appears to be dated November 1, 2018. Johnson later submitted an amended declaration stating that information in this initial Compliance Verification was not accurate. [Docket No. 510](#), filed Nov. 16, 2018.

Because DCL16BLT is the sole member of RaPower, DCL16BLT is the only entity with the ability to control what RaPower does (or did). And Neldon Johnson had complete control over DCL16BLT. This means Neldon Johnson exclusively controlled the actions of RaPower. It would be anomalous to determine that RaPower should be in the Receivership Estate but not have its sole owner also in the Receivership Estate. Moreover, having RaPower as a pass-through entity might create difficulties for the Receiver in trying to recover assets if DCL16BLT were not in the Receivership Estate. If the Receiver attempts to recover voidable transfers that RaPower made to others, the recipients of those transfers might argue that the transfers really were from DCL16BLT, not RaPower, and challenge the Receiver's authority to avoid those transfers.

Further evidence of the close relationship of DCL16BLT is shown by IAS and RaPower paying the legal fees of Paul Jones to represent DCL16BLT in Tax Court proceedings.

6. LTB O&M. LTB O&M, like Cobblestone, was to manage lenses on behalf of lens purchasers. This means LTB O&M was integral to the investment contracts between RaPower and investors/lens purchasers. Because no purchasers were likely to install and manage their own solar lenses, LTB O&M was an important part of the inducement for purchasers. Neldon Johnson was the sole decision maker for this company.

7. N. P. Johnson Family Limited Partnership. This entity was the epicenter of fraudulent transfers and sham transactions:

a. Neldon Johnson transferred at least 14 patents and other intellectual property to NPJFLP for no apparent consideration. These were fraudulent transfers that diminished the assets of Johnson—assets that otherwise could be used to satisfy the judgments entered by the Court;

b. Neldon Johnson transferred 10 million shares and 100 million warrants in IAS to NPJFLP for no apparent consideration. These were fraudulent transfers that diminished the assets of Johnson.

c. NPJFLP acquired two Texas real properties. Because NPJFLP has not disclosed that it had any source of funds, the Receiver suspects NPJFLP was the beneficiary of fraudulent transfers of the Texas properties to NPJFLP. If IAS or RaPower funds were used to purchase these properties, the properties belong in the Receivership Estate—regardless of whether NPJFLP’s transfers of the property to Black Night and Starlight were effective.

d. The transfers of assets to Black Night and Starlight were fraudulent transfers, made without NPJFLP receiving any benefit from the transfer of assets. The consideration for the transfer of the assets instead went to Roger Hamblin, LaGrand Johnson, and Randale Johnson.

e. These fraudulent transfers are consistent with the expressed purposes of NPJFLP: facilitating Johnson’s transfer of assets to family members.

f. The transfers to Black Night and Starlight revealed that Johnson’s prior transfer of his ownership of DCL-16A was a sham. Johnson signed consents to the transfers to Black Night and Starlight as the authorized representative of one of the general partners of NPJFLP—despite having signed documents the prior year purporting to transfer his general partner rights to Hamblin.

g. Cobblestone paid the property taxes for the NPJFLP-owned Texas properties after the properties were purportedly transferred to Black Night and Starlight, evidence of Johnson’s claim that he was entitled to use any entity to make any payment he wanted.

h. Despite NPJFLP's apparent transfer of the real estate to Black Night and Starlight, no deeds were filed in the Texas real property records; the property was left in the name of NPJFLP.

i. The transfers of real property to Black Night and Starlight were revealed as shams in 2013, in 2015, and again in 2017 when Johnson signed documents (on behalf of NPJFLP) granting easements on the Texas properties to three different companies—at a time when NPJFLP purportedly no longer owned the properties and when Johnson purportedly no longer was one of general partners of NPJFLP and controlled the other general partner.¹⁷⁷ An additional defect of granting the 2015 and 2017 easements is that NPJFLP's existence had expired on March 3, 2015. Because NPJFLP's existence had expired, the only business allowed for NPJFLP would be in connection with winding down the partnership. The Receiver believes the granting of this easement is not consistent with “winding down” NPJFLP.

j. Despite Johnson's apparent assignment of his preferred shares and warrants to NPJFLP and the subsequent transfer of those shares and warrants to Black Night and Starlight, Neldon Johnson's name remained on most of the shares and warrants issued to Johnson.

8. Shepard Energy. This entity was just an assumed name, which has been canceled. Nevertheless, the Receiver recommends putting this entity into the Receivership Estate to ensure this name is not used to perpetuate this scheme. If, after being in the Receivership Estate, the

¹⁷⁷ If NPJFLP had believed that the Texas property had been transferred to Black Night and Starlight, NPJFLP would have refused to sign the easement, instead instructing the requesting entity to contact Black Night and Starlight to obtain the easement. That did not happen; NPJFLP granted the easement. Moreover, Neldon Johnson signed as manager for NPJFLP despite having signed documents in January 2011 transferring his interest in NPJFLP to Roger Hamblin. If Neldon Johnson had intended the transfer of his interests in NPJFLP to be real, the easement would have had to have been signed by LaGrand Johnson (one of the general partners) or Roger Hamblin on behalf of DCL-16A (the other general partner).

same name were ever used again, it is more likely counterparties would be on notice that the entity was associated with the prior fraud.

9. Shepard Global. This company has also been voluntarily dissolved. Nevertheless, the Receiver recommends putting this entity into the Receivership Estate to ensure the name is not used to perpetuate this scheme. If someone later uses the same name again, counterparties would be on notice that the name entity was associated with the prior fraud.

10. Solstice Enterprises. Solstice is the owner of XSun. The Receiver does not know who the owners of Solstice are. The activities of Solstice appear to have been heavily intertwined with the activities of RaPower and IAS. Solstice sold solar lenses. It paid Cobblestone to manage the lenses and solar towers. Promissory notes from purchasers of lenses were intended to be assigned to Solstice by RaPower and other lens sellers.¹⁷⁸ Solstice owns equipment that is stored in a warehouse in Utah. It had the same address as RaPower. Its only business appears to be in the U.S. and the only contract that the Receiver has found involving Solstice specified that Utah law would apply to the contract and any alternative dispute resolution would occur in Utah. Solstice has a contractual right to receive 81.3% of RaPower's revenues.¹⁷⁹

The only evidence the Receiver found of Solstice actually conducting business was an Equipment Wholesale Agreement between Solstice and RaPower. The Receiver has found no indication that Solstice conducted any business with entities other than RaPower.¹⁸⁰ Under the contract, Solstice was to manufacture and sell "alternative energy systems" to RaPower. The Receiver has not found any evidence that Solstice has any manufacturing capability anywhere

¹⁷⁸ The Receiver does not know if any purchaser promissory notes were actually assigned to Solstice.

¹⁷⁹ Since RaPower's obligations under this financing arrangement could be satisfied by RaPower purchasing equipment from Solstice, it appears to the Receiver that this revenue arrangement may have been designed to transfer RaPower revenues to the foreign entity or to hide revenues.

¹⁸⁰ Such documents may exist but the Defendants' refusal to provide documents to the Receiver deny him the ability to make better assumptions.

but doubts that the intent of the parties to this agreement was that the alternative energy systems would be constructed in Nevis—using Johnson’s technology—and shipped to Utah. Instead, the Receiver believes construction of any alternative energy systems that might have occurred would have been in Utah. Thus, Solstice’s actual business operations would have been conducted primarily—if not exclusively—in Utah.¹⁸¹

11. Black Night Enterprises. Black Night acquired assets from NPJFLP but gave consideration to LaGrand Johnson, Randale Johnson, and Roger Hamblin. While the Receiver has not found evidence that Neldon Johnson was an owner or officer of Black Night, Johnson did sign a licensing agreement between IAS and Black Night—on behalf of both parties to the agreement. Neldon Johnson claims he is entitled to a royalty on revenues from lens sales under this licensing agreement.

Black Night owns and controls the technology that Johnson insists is essential to the operations of IAS and RaPower. While the Receiver will not be resuming development or promotion of the alternative energy scheme that RaPower promoted, so long as the technology remains with Black Night and Starlight, Johnson or others could continue their scheme under different companies—all the while claiming that they have and are using the technology underlying the energy systems of IAS and RaPower. If that technology is not brought back into the Receivership Estate, it may be used to continue the deception.

Johnson testified that the intellectual property he developed is worth billions of dollars.¹⁸² The majority of the intellectual property was transferred to NPJFLP and from there to Black

¹⁸¹ Notwithstanding that Solstice and RaPower have the same address and the owners are related, the agreement contains a term asserting: “The parties to this Agreement are independent entities and neither is the agent, representative, employee, employer, partner or joint venture of the other” *Equipment Wholesale Agreement*, Aug. 1, 2011 at ¶ 3.

¹⁸² Deposition of Neldon Johnson, Oct. 3, 2017 at 220:3 – 220: 16.

Night and Starlight. If the intellectual property is worth billions (or even millions or thousands), those assets will go to LaGrand Johnson, Randale Johnson, and Roger Hamblin. If those assets are to be used to satisfy obligations of the Receivership Estate, Black Night need to be brought into the Receivership Estate.

The Receiver believes all the transfers to Black Night were avoidable both because there was no reasonably equivalent value given to NPJFLP and because Neldon Johnson illegitimately signed documents necessary to the transfer. In addition, securities and real estate were purportedly transferred to Black Night, which transfers were not perfected by recording Black Night's name on the property titles and on the stock transfer ledgers. For these reasons, the Receiver expects to bring avoidance actions to recover these assets. If Black Night is not made a part of the Receivership Estate before these avoidance actions are brought, the Receiver is concerned that the owners of Black Night will dissipate its assets in defending the Receiver's intended avoidance actions or borrow against the value of the real estate. Further, the Receiver is concerned that the IAS preferred shares and warrants might be transferred out of Black Night or used to manipulate the market of this public company or induce unsuspecting investors to buy the stock.

12. Starlight Holdings. The situation with Starlight Holdings is identical to that of Black Night. The same reasons that impel a conclusion that Black Night should be brought into the Receivership Estate apply to Starlight Holdings.

13. U-Check. This *expired* company owns a 1984 Cessna twin-engine aircraft. Johnson has refused to tell the Receiver where the aircraft is located. Johnson has stated elliptically that the aircraft was damaged and is in "the shop," and that the damages may be greater than the value of the aircraft. However, he has refused to identify what shop has the

aircraft.¹⁸³ The Receiver does not know whether the aircraft is, in fact damaged, the extent of the damage, or whether there is an insurance policy that might cover the damage to the aircraft.

If the aircraft has any value—and U-Check is not brought into the Receivership Estate—Neldon Johnson would have the ability to sell the aircraft. While the Order would require that Johnson pay over the proceeds of any such sale—as an asset of Johnson—to the Receiver, the Receiver does not have confidence that Johnson would sell the aircraft for reasonably equivalent value or that he would pay the proceeds over to the Receiver. The only sure way for the Receivership Estate to ensure it gets the value from this asset is to put U-Check into the Receivership Estate so the Receivership can control any sale of the aircraft.

CONCLUSION

Most if not all of the affiliates have been used either as instruments of the tax fraud or as vehicles to shield assets from the United States or other creditors. The Receiver believes that all the affiliates and U-Check should be made part of the Receivership Estate to maximize the Receiver's ability to recover assets, to prevent dissipation of assets that belong to the Receivership Estate as a result of fraudulent transfers, and to prevent a renewal of the fraudulent tax promotion.

The Receiver has not identified any assets, property, property rights, or interests of the affiliates and subsidiaries that derived from business activity unrelated to the abusive solar energy scheme at issue here. Even IAS, whose annual report to shareholders identified the many Johnson-invented technologies it owned, stated it was focusing exclusively on promoting Johnson' solar energy program.

¹⁸³ The Receiver has recently learned the location of this aircraft.

If the Court determines not to bring these entities into the Receivership Estate, the Receiver requests that the Court continue the asset freeze against them until fraudulent transfer actions brought by the Receiver are completed—so their assets are not dissipated in defending the Receiver’s fraudulent conveyance actions. If the Court determines not to bring entities into the Receivership Estate that are dissolved or have no assets, the Court should consider ordering them dissolved so they cannot be used to promote subsequent tax frauds or continue marketing the discredited solar lens scheme. The United States has informed the Receiver that it consents to the recommendations made by the Receiver herein.

DATED this 25th day of February 2019.



Wayne Klein
Receiver

PARR BROWN GEE & LOVELESS

/s/ Jonathan O. Hafen
Jonathan O. Hafen
Joseph M.R. Covey
Michael S. Lehr
Attorneys for Receiver

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the above **RECEIVER'S REPORT AND RECOMMENDATION ON INCLUSION OF AFFILIATES AND SUBSIDIARIES IN RECEIVERSHIP ESTATE** was filed with the Court on this 25th day of February, 2019, and served via ECF on all parties who have requested notice in this case.

/s/ Natalie McKean