

Jonathan O. Hafen (6096) (jhafen@parrbrown.com)

Jeffery A. Balls (12437) (jballs@parrbrown.com)

Michael S. Lehr (16496) (mlehr@parrbrown.com)

**PARR BROWN GEE & LOVELESS, P.C.**

101 South 200 East, Suite 700

Salt Lake City, Utah 84111

Telephone: (801) 532-7840

Facsimile: (801) 532-7750

*Attorneys for Court-Appointed Receiver Wayne Klein*

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

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UNITED STATES OF AMERICA,

Plaintiff,

v.

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

Defendants.

**RECEIVER'S SIXTH QUARTERLY  
STATUS REPORT**

*For the period January 1, 2020 to March  
31, 2020*

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

District Judge David Nuffer

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R. Wayne Klein, the Court-Appointed Receiver (the "Receiver") of RaPower-3, LLC ("RaPower"), International Automated Systems, Inc. ("IAS"), and LTB1, LLC ("LTB1"), as well as 13 subsidiaries and affiliates (collectively, the "Receivership Entities"), and the assets of Neldon Johnson ("Johnson") and R. Gregory Shepard ("Shepard") (collectively "Receivership Defendants"), hereby submits this Sixth Quarterly Status Report ("Report") for the period from January 1, 2020 to March 31, 2020 ("Reporting Period").

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## I. INTRODUCTION AND BACKGROUND

The Receivership Estate was created on October 31, 2018 with entry of the Court's *Receivership Order* ("Order"),<sup>1</sup> which, among other things, appointed the Receiver and continued a previously-entered asset freeze.<sup>2</sup> A May 3, 2019 order expanded the Receivership Estate to include 13 additional affiliated entities.<sup>3</sup>

The Receiver's efforts during the quarter have focused on recovering records, pursuing litigation, negotiating settlements, marketing real estate, and working with counsel for the United States in joint efforts to recover documents and assets and to remedy the effects of the Johnsons' failure to comply with mandates of the receivership orders.

## II. RECOVERY OF DOCUMENTS

A. Documents Recovered from Landfill. On September 2, 2019, Neldon and Glenda Johnson drove to the Millard County landfill at Oasis, Utah. There, they removed documents from their vehicle, put the documents in four black garbage bags, and threw the garbage bags in a dumpster at the landfill. Unbeknownst to the Johnsons, their actions were observed by an off-duty Millard County Sheriff's deputy. After the Johnsons departed, the deputy retrieved the documents from the dumpster and took them to the sheriff substation. The Millard County Attorney turned those documents over to the Receiver. The retrieved documents, many of which are original documents, are all records of Receivership Entities or relate to financial affairs of Neldon Johnson. The documents include original letters from attorneys, an embossed copy of a

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

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

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

resolution of the IAS board of directors, bank deposit books for IAS, a checkbook for U-Check, Inc., canceled checks for a personal bank account of Neldon Johnson, tax returns for IAS, signed financial statements, 3,637 pages of pre-numbered documents, and hundreds of other documents. All of these documents should have been delivered to the Receiver in November 2018. Neldon Johnson attempted to dispose of these documents after having filed a sworn declaration stating that he had delivered to the Receiver all relevant documents in his possession or control.<sup>4</sup>

B. Documents from Nelson Snuffer. On December 30, 2019, the Court ordered Nelson Snuffer to deliver 13 boxes of documents to the Receiver.<sup>5</sup> Those documents were delivered on January 10, 2020. The Receiver has begun reviewing those documents.

C. Documents from Peregrine Financial, Gary Peterson. On January 29, 2020, IAS's former outside accountant, Gary Peterson, delivered to the Receiver a box of accounting records used by Peterson in preparing financial statements of IAS and assisting in the 2018 bankruptcy petition of RaPower. Peterson also delivered two file cabinet drawers of original IAS records from 1999 to 2017. The Receiver has indexed these documents. The IAS records delivered by Peterson included documents the Receiver has not seen previously, including an operating agreement for RaPower.

### III. LITIGATION

A. Glenda Johnson Lawsuit against Wings West, LLC. On February 10, 2020, Glenda Johnson filed a lawsuit against Wings West, LLC, the buyer of the Millard County property upon which the initial group of solar towers were constructed. The lawsuit, filed in the

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<sup>4</sup> These documents are described in more detail in the section below discussing contempt.

<sup>5</sup> [Docket No. 828](#), filed December 30, 2019.

Fourth District Court of Utah, seeks \$9 million in damages based on labor and materials supposedly provided by Glenda and IAS between 2004 and 2019.<sup>6</sup>

B. Glenda Johnson Lawsuit Against IRS, Others. On February 12, 2020, Glenda Johnson filed a complaint in U.S. District Court against the IRS, US Department of Justice, and Judge Nuffer.<sup>7</sup> That action is a collateral attack on the Receivership action. It seeks an injunction against proceedings in the Receivership action and a declaration that the judgment in the Receivership action is void. That proceeding is pending.

C. New Lawsuits Filed by the Receiver. The Receiver filed additional lawsuits during the Reporting Period seeking recovery of funds. Three of these lawsuits, against Robert Aulds, Nicholas Kontos, and Robert Rowbotham, were against parties who had stipulated to tolling agreements with the Receiver but where no settlements were reached. A fourth suit was filed against Hinton Battle, a commission recipient who had previously agreed to a settlement but had failed to make any of the promised settlement payments.

D. Lawsuits Dismissed. The Receiver dismissed three lawsuits during the Reporting Period. The lawsuit against Ryan Davies was dismissed after he demonstrated the payments to him were for consulting work he actually performed. The complaint against Korry Ardell was dismissed after he demonstrated that payment to him was for equipment he sold to IAS. The lawsuit against Gary Peterson was dismissed after Peterson provided extensive assistance to the Receiver, including providing numerous original IAS and RaPower records in his control.

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<sup>6</sup> Case No. 200700008, Fourth District Court (Utah 2020).

<sup>7</sup> Civil Case No. 2:20-cv-90 (D. Utah).

Peterson also demonstrated a financial inability to pay any judgment. Additional lawsuits were dismissed in connection with Court-approved settlements.

E. Litigation Motions. One of the lawsuits filed by the Receiver was against the Heideman and Associates law firm. Heideman filed a motion to dismiss, disputing the factual allegations of the Receiver's lawsuit and asserting additional facts. The Court denied the motion, finding the Receiver's complaint was legally sufficient and adequately pled.<sup>8</sup>

F. Discovery Requests and Production. To comply with his discovery obligations, the Receiver prepared discovery schedules, compiled and delivered initial disclosures, responded to discovery requests, and made discovery requests to some defendants. In the course of preparing discovery responses, the Receiver gathered financial records used by the forensic accountants and made those available on a shared drive.

G. Tolling Agreements. The Receiver still has one matter where a tolling agreement is still in effect. That tolling agreement expires on April 30, 2020. All the other matters where tolling agreements were in effect have had lawsuits filed, have settled, or are no longer being pursued.

H. Stay Motions Denied. The law firm of Nelson Snuffer filed motions to stay proceedings in approximately 17 lawsuits filed by the Receiver. In February, the Court denied all those motions.<sup>9</sup>

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<sup>8</sup> Case No. 2:19-cv-854, Docket No. 9, filed February 24, 2020.

<sup>9</sup> See *Klein v. Trudy Shepard*, Case No. 2:19-cv-695, Docket No. 19, filed February 19, 2020.

#### IV. APPEALS

A. Appeal of Receivership Order. As noted in the Fifth Status Report, oral argument on the Defendants appeals relating to orders of the Court in connection with the asset freeze, judgment, and appointment of the Receiver was held on September 25, 2019. A ruling has not yet been issued.

B. Appeal of Affiliates Order. Six of the affiliated entities filed an appeal of the order expanding the Receivership Estate to include 13 affiliated entities. Oral argument on this appeal was held on March 11, 2020. A ruling is not expected until late in 2020.

#### V. SETTLEMENTS

A. Second Motion to Approve Settlements. On January 8, 2020, the Court approved the Receiver's second motion to approve settlements.<sup>10</sup> To date, the Receiver has been paid \$1,347,659.00 on these settlements.

B. Third Motion to Approve Settlements. On February 3, 2020, the Court approved the Receiver's third motion to approve settlements.<sup>11</sup> The Receiver has been paid \$441,605.99 to date on these settlements.

C. Fourth Motion to Approve Settlements. On March 5, 2020, the Receiver filed a fourth motion to approve an additional twelve settlement agreements, which will bring \$213,160.68 into the Receivership Estate.<sup>12</sup> The Court approved the motion on March 30, 2020.<sup>13</sup> The Receiver has collected \$155,387.30 to date from these settlements.

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<sup>10</sup> [Docket No. 832](#), filed January 8, 2020.

<sup>11</sup> [Docket No. 853](#), filed February 3, 2020.

<sup>12</sup> [Docket No. 873](#), filed March 5, 2020.

<sup>13</sup> [Docket No. 896](#), filed March 30, 2020.

D. Fifth Motion to Approve Settlements. A mediation on March 26, 2020 resulted in a settlement of the Receiver's claims against the Hale & Wood law firm. Because the law firm does not have to pay the settlement amount until after Court approval, the Receiver filed a fifth motion to approve settlements on March 30, 2020 seeking approval of the Hale & Wood settlement and one other hardship settlement.<sup>14</sup> These two settlements will bring \$298,000 into the Receivership Estate. The motion was approved after the end of the Reporting Period and will be discussed in the next status report.

## VI. OTHER ASSET RECOVERY EFFORTS

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

1. Turnover Motion: Glenda Johnson. The Receiver filed a motion on August 30, 2019 seeking the turnover of fourteen properties and over \$1.4 million in the possession of Glenda Johnson, the wife of Defendant Neldon Johnson.<sup>15</sup> At the direction of the Court, the Receiver submitted a supplemental filing and declaration during the Reporting Period authenticating exhibits submitted in support of the Receiver's 2019 motion.<sup>16</sup> After the end of the Reporting Period, the Court indicated an intention to grant this motion and directed the Receiver to prepare a proposed order with findings and conclusions.<sup>17</sup> This will be discussed in the next Status Report.

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<sup>14</sup> [Docket No. 898](#), filed March 30, 2020.

<sup>15</sup> [Docket No. 757](#), filed August 30, 2019.

<sup>16</sup> [Docket No. 883](#), filed March 16, 2020.

<sup>17</sup> Docket No. 916, issued April 23, 2020.

2. Turnover Motion: Greg and Diana Shepard, Diana C. Shepard Living Trust. On October 4, 2019, the Receiver filed a motion seeking a declaration that Greg Shepard's one-half interest in his residence was Receivership Property, notwithstanding that title to the property was held in a trust in the name of Diana Shepard, Greg Shepard's wife.<sup>18</sup> The motion was opposed by Greg Shepard and is awaiting Court action.

3. Affidavit of Non-Compliance: Nelson Snuffer. On December 13, 2019, the Receiver filed an affidavit of non-compliance with the Court, asserting that the law firm Nelson Snuffer was improperly withholding \$735,202.22 in retainer funds belonging to XSun Energy, which funds are property of the Receivership Estate and should be in the possession of the Receiver.<sup>19</sup> Pursuant to a January 2020 stipulation, the funds were delivered to the Receiver pending a final decision by the Court.<sup>20</sup> Both parties have completed their briefing and a notice to submit has been filed.<sup>21</sup>

B. Motor Vehicles. At a February 25, 2020 hearing on the United States' second motion for contempt (discussed below)<sup>22</sup> the Court directed the Receiver to prepare an order implementing the Court's findings regarding vehicles owned by Neldon and Glenda Johnson. The Receiver submitted a proposed order, which was opposed by counsel for Neldon Johnson and counsel for Glenda Johnson. On March 27, 2020, the Court issued an order requiring turnover of vehicles.<sup>23</sup> The order provides that: 1) all 18 vehicles titled in the name of Neldon Johnson and all 18 additional vehicles titled in the name of, owned by, or controlled by Glenda

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<sup>18</sup> [Docket No. 780](#), filed October 4, 2019.

<sup>19</sup> [Docket No. 812](#), filed December 4, 2019.

<sup>20</sup> [Docket No. 884](#), filed January 17, 2020.

<sup>21</sup> [Docket No. 891](#), filed March 26, 2020.

<sup>22</sup> [Docket No. 754](#), filed August 2, 2019.

<sup>23</sup> [Docket No. 893](#), filed March 27, 2020.

Johnson are Receivership Property,<sup>24</sup> 2) Neldon Johnson and Glenda Johnson must deliver to the Receiver all vehicles that are drivable or easily towable to a location identified by the Receiver, 3) Neldon Johnson and Glenda Johnson must provide information about the vehicle conditions to the Receiver, and 4) all members of the Johnson family and others are prohibited from interfering with the Receivers work in taking control of and selling these vehicles. The order also specifically invalidated the \$2.1 million that Glenda Johnson claimed the Receiver owed her as storage fees for those vehicles. Details on the turnover of vehicles will be provided in the next status report.

C. Records Showing Transfers to LaGrand and Randale Johnson. Pursuant to directions from the Court at the February 25, 2020 contempt hearing, the United States filed a motion seeking the bank and retirement account records of LaGrand and Randale Johnson to determine whether funds from Receivership Entities were deposited into their bank or retirement accounts.<sup>25</sup> LaGrand and Randale Johnson objected to the motion;<sup>26</sup> the United States determined no reply was needed and filed a notice to submit the motion for decision.<sup>27</sup>

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

A. Sales of Real Estate in the name of IAS. All six real estate properties that were owned by IAS were sold during 2019.<sup>28</sup> Attached as Exhibit 1 is a table showing the status of all properties in the Receivership Estate.

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<sup>24</sup> The order creates a procedure for Glenda Johnson to provide proof that one of the vehicles she controls is not Receivership Property.

<sup>25</sup> [Docket No. 876](#), filed March 10, 2020.

<sup>26</sup> [Docket No. 900](#), filed March 31, 2020.

<sup>27</sup> [Docket No. 901](#), filed April 1, 2020.

<sup>28</sup> The net proceeds for two of these properties were received during the current Reporting Period.

B. Marketing the Texas Property. During the Reporting Period, the Receiver took steps to market and sell the 626-acre property in Texas that was titled in the name of the N.P. Johnson Family Limited Partnership. These steps included obtaining a survey of the property and evaluating information he obtained from two oil companies about four wells they have drilled on the Texas property.<sup>29</sup> On February 3, 2020, the Court approved the Receiver's motion to appoint appraisers for the property.<sup>30</sup> On March 2, 2020, the Court approved the Receiver's motion to sell the property at public auction.<sup>31</sup> The Receiver set an auction date of April 7, 2020 and caused legal notices to be published in the newspaper in Howard County Texas, where the property is located. As of the end of the Reporting Period, one additional bidder had prequalified to bid at the auction, so the auction was held. The results of the auction will be described in a notice of auction results and in the next status report.

C. Elk Ridge, Utah Property. Foreclosure proceedings on the property located in Elk Ridge, Utah were completed in January 2020. The prior owners have vacated the property before the final foreclosure date. The Receiver paid the prior owners a set fee for not contesting the foreclosure and leaving the home in good condition. The Receiver secured insurance on the home. The Receiver has engaged a listing broker to market the home and manage the property until it is sold. All locks on doors at the home have been changed. On March 27, 2020, the Court approved the appointment of three appraisers for the property.<sup>32</sup> The Receiver is in the process of having repairs made on the home to prepare it for sale. When the repairs are completed and appraisals are obtained, the Receiver will publicly list the home for sale.

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<sup>29</sup> The subsurface (mineral) rights on the property belong to a prior owner of the property.

<sup>30</sup> [Docket No. 854](#), filed February 3, 2020.

<sup>31</sup> [Docket No. 867](#), filed March 2, 2020.

<sup>32</sup> [Docket No. 894](#), filed March 27, 2020.

D. Liens Filed by Glenda Johnson. As noted in the prior status report, on December 19, 2019, Glenda Johnson filed a notice of lien with the Millard County Recorder on the real properties located in Millard County that are titled in her name. The notice asserts a “mechanic’s lien” in the amount of \$30 million, which lien was assigned to Anstram Energy, a company based in the country of Nevis. During the current reporting period, the Receiver learned that Glenda Johnson also filed liens on the Texas property, in the amount of \$10 million, and on her home in Payson, Utah in the amount of \$2 million. The Receiver disputes the validity of these liens and has filed an affidavit of non-compliance asserting that Glenda Johnson has violated the Corrected Receivership Order by filing these liens.<sup>33</sup>

**VIII. UNITED STATES’ MOTION FOR ADDITIONAL SANCTIONS DUE TO CONTINUED CONTEMPT**

A. Motion for Additional Contempt Sanctions. On August 21, 2019, the United States filed a motion seeking additional sanctions,<sup>34</sup> asserting that Neldon Johnson, Glenda Johnson, LaGrand Johnson, and Randale Johnson continue their refusals to comply with their obligations under the Corrected Receivership Order. Each of the Johnsons filed responses, denying they were in contempt.<sup>35</sup>

B. Initial Evidentiary Hearing. The Court held an initial evidentiary hearing on January 23, 2020 before Magistrate Judge Paul Kohler. At that hearing, each of the four Johnsons answered questions by the Receiver under oath relating to their conduct and their compliance with the Corrected Receivership Order.<sup>36</sup>

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<sup>33</sup> [Docket No. 888](#), filed March 20, 2020.

<sup>34</sup> [Docket No. 754](#), filed August 21, 2019.

<sup>35</sup> [Docket No. 760](#), filed September 3, 2019; [Docket No. 765](#), filed September 11, 2019.

<sup>36</sup> *See* [Docket No. 850](#), filed January 23, 2020.

C. Hearing on Contempt. On February 25, 202, the Court held a hearing on the United States' motion. At the hearing, the Court took evidence regarding additional indications of contempt of the Court's prior orders, heard arguments on whether contempt had occurred, and made preliminary findings. The Receiver and the United States presented evidence at the hearing of the following conduct:

1. Discarded Documents. A Millard County deputy sheriff testified at the hearing that on September 2, 2019 he observed Neldon and Glenda Johnson discard four bags of documents in a Millard County dumpster. Those documents included original corporate records of IAS and personal financial records of Neldon Johnson.

2. Withheld or Falsified Documents. After the May 17, 2019 deadline for the Johnsons to deliver all required documents to the Receiver, both Neldon and Glenda Johnson submitted filings with the Court that included a January 18, 2013 handwritten contract that claimed Solstice Enterprises had agreed to pay Glenda Johnson \$35 million for 200 solar towers to be constructed in the future. The Court found that the purported contract was not believable and that Neldon and Glenda Johnson's efforts to use those documents made them not credible.<sup>37</sup>

Separately, LaGrand Johnson delivered documents to the Receiver in December 2019 showing that IAS made credit card payments for his benefit. These records had not been delivered to the Receiver before the May 2019 deadline.

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<sup>37</sup> The United States submitted proposed findings of fact and conclusions of law from the February 25 hearing. *See* [Docket No. 899](#), filed March 31, 2020.

3. Easement Granted on Texas Property. Glenda, LaGrand, and Randale Johnson signed documents in October 2019 purporting to grant an easement to an oil company on Texas property that is under the control of the Receiver. Glenda, LaGrand, and Randale Johnson lacked authority to grant such an easement and also failed to provide documents to the Receiver relating to the easement.

4. Unauthorized Renewal of IAS Corporate Charter. In November 2019, LaGrand Johnson renewed the corporate charter of IAS, claiming to be an officer of IAS, when he had no authority to act on behalf of IAS. He also failed to provide any of these documents to the Receiver.

5. Failure to Recover Documents from Third Parties. None of the Johnsons made efforts to recover responsive documents that were in the possession of third parties.

6. Failure to Identify Documents Once Under Their Control. All of the Johnsons failed to adequately identify documents that had once been under their control and explain what had happened to those documents. Neldon Johnson failed to provide a detailed accounting that was required by the Court.

7. Prototype Turbine. Neldon, Glenda, and Randale Johnson worked together in 2019 to divert \$500,000 of IAS money to Wisdom Farms Technology Group to build a prototype turbine. Neldon, Glenda, and Randale Johnson took the partially-constructed prototype to property in Payson Utah controlled by Glenda Johnson.

8. Failure to Deliver Vehicles. As described above, the Court made findings that vehicles titled in the name of Neldon and Glenda Johnson were Receivership Property and that the Johnsons failed to turn over those vehicles to the Receiver. Neldon

Johnson also failed to disclose the disposition of seven vehicles titled in his name that he claims he no longer possesses.

9. Failure to Disclose Expenditures and Sources of Income. Neldon Johnson failed to identify the recipients to whom he had sent money since 2012 and the sources of funds he received. This included his failure to account for \$361,000 Randale Johnson paid to Neldon Johnson in 2007 and 2008 and \$1.57 million that Randale and LaGrand Johnson gave to IAS between 2006 and 2010. These payments were proceeds of IAS stock that Randale and LaGrand sold. Neldon Johnson also failed to disclose more than \$475,000 in proceeds he received between 2007 and 2009 by selling IAS stock through his personal brokerage accounts.

10. Failure to Identify Sources of Funding. Legal filings submitted by Receivership Entities and Affiliated Entities after entry of the Receivership Order failed to disclose the sources of funding for the preparation and filings of the submissions.

11. Hindering the Work of the Receiver. Glenda Johnson filed a \$30 million lien on properties in Millard County that the Receiver is seeking. A \$2 million lien was filed on properties in Utah County, Utah and a \$10 million lien on property in Texas.

12. Unauthorized Use of Receivership Assets. In November 2019, Randale Johnson used Receivership assets to conduct unauthorized testing on IAS solar equipment—when the property and equipment were under the Receiver’s sole control.

13. Failure to Pay Fees Awarded by the Court. All of the Johnsons failed to pay \$56,000 in attorneys’ fees and costs that the Court ordered them to pay to the Receiver and the United States.

## **IX. INVESTIGATION**

The Receiver has analyzed additional records recovered from Nelson Snuffer, IAS accountants, and Johnson family members, along with records recovered from the landfill, in an effort to identify funding used to acquire assets of Receivership Defendants and to determine the potential for recovery of monies or assets. Some of those investigations, such as analysis of prior stock sales by Neldon Johnson and family members, may not yield additional recoveries. The Receiver is reporting his findings from those investigations because he feels a duty to explain how some of his time has been spent and because some of these analyses are updates of investigations directed by the Court in paragraph 85 of the Corrected Receivership Order.

A. Analysis of Neldon Johnson Stock Sales. Analysis of documents recovered from the landfill reveal that Neldon Johnson received enormous funds from the sale of IAS stock that he had the company issue him. These sales included stock that Neldon Johnson sold directly to others in private transactions and sales made through broker-dealers in public markets.

1. Private Sales. Records discarded by Neldon Johnson provided details of Neldon Johnson's extensive sales of his shares of IAS stock. In one 1998 transaction, Neldon Johnson sold 100,000 shares to a purchaser at \$0.50 per share, receiving \$50,000 in net proceeds. Other discarded records discussed 1.6 million shares that Neldon Johnson sold to approximately 630 additional individuals in 23 different states. He received approximately \$500,000 in proceeds from these sales. In total, these records show he earned at least \$550,000 from these private sales of IAS shares. Among the documents recovered from the landfill included correspondence from an attorney

advising Neldon Johnson that these private sales likely violated state and federal securities laws.

2. Market Sales. Records recovered from the landfill also showed extensive public sales of stock between October 1994 and February 1998. During this three-and-a-half-year period, Mr. Johnson sold 2,185,900 shares of stock in the public markets through four different brokerage firms. The price at which Neldon Johnson sold shares ranged from \$0.31 per share to \$29.75 per share. He received at least \$2,072,426.50 from these sales. In total, Neldon Johnson received more than \$2.6 million from public and private stock sales before 1998.

3. Stock Sales After February 1998. While Mr. Johnson has not delivered records to the Receiver showing stock sales after February 1998, Pacific Stock Transfer Company records showed that IAS issued more than 69 million shares to Neldon Johnson after February 1998 which shares are no longer outstanding. It is possible that some of these share issuances were replacements of canceled certificates. Even if that was the case, it appears that at least 23 million new shares were issued to Neldon Johnson that have been sold since 1998. Those sales have undoubtedly resulted in millions of dollars in additional proceeds to Neldon Johnson personally.<sup>38</sup>

B. False Statements in Neldon Johnson Bankruptcy Petition. On January 20, 2011, Neldon Johnson filed a Chapter 7 bankruptcy petition.<sup>39</sup> His *Statement of Financial Affairs*, filed under oath on February 3, 2011, claimed that his 2008 income totaled \$14,183.00 and his 2009

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<sup>38</sup> Pacific Stock Transfer Company informed the Receiver that there were no sales by Johnson after November 2015.

<sup>39</sup> Case No. 11-20679.

income totaled \$89,333.00. Neldon Johnson stated that these income amounts were derived from tax returns he had filed. However, brokerage account statements recovered from the landfill revealed that during 2008, Neldon Johnson received \$284,743.61 from IAS shares that he sold in 2008.<sup>40</sup> Sales of IAS stock during 2009 netted him at least \$133,633.76.<sup>41</sup> In light of the stock sale proceeds Johnson received during these periods, the statements he made in his bankruptcy filing and in his tax returns were false.

C. Neldon Johnson Gave IAS Stock to Others, to Raise Funds to Pay His Mortgage.

Neldon Johnson and his former wife, Ina, owed \$447,391.60 to Zions Bank for a mortgage on property they owned together in Salem, Utah. Neldon Johnson had IAS issue stock to Monty Hamilton. It appears that Hamilton sold the IAS stock granted to him and used some of the proceeds to make the payments on the mortgage owed by Neldon and Ina Johnson.

D. Sales of Stock by Other Johnson Family Members. As noted above, in connection with the United States' first contempt motion, LaGrand and Randale Johnson provided records to the Receiver showing that they sold IAS stock they had received and transferred \$1.57 million in proceeds to IAS. Records recovered from the landfill revealed that these sales by LaGrand and Randale Johnson were not isolated. Members of the Johnson family sold substantial IAS stock in earlier years, depositing the proceeds from those sales into a bank account of IAS. Records of such sales, recovered from the landfill, revealed the following sales:

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<sup>40</sup> The 2008 brokerage account statements recovered from the landfill covered only the period from January 28, 2008 through August 22, 2008. It is likely that Johnson made additional sales of personal stock after August 22, 2008.

<sup>41</sup> The 2009 recovered brokerage accounts statements covered the period from May 14, 2009 through June 30, 2009. It is likely that Johnson sold stock outside this six-week period, meaning his earnings from stock sales was much greater.

<b>Stock Sales by Johnson Family Members</b>		
<b>Family Member</b>	<b>Amount</b>	<b>Time Period</b>
Brenda Johnson	\$1,342,428.95	May 1996 – Jan. 1999
Neldon Johnson	\$338,258.57	Nov. 1996 – Feb. 1999
Reiko Johnson	\$504,500.00	Feb. 1997 – Oct. 1997
LaGrand Johnson	\$681,878.00	Jan. 1997 – Aug. 1998
<b>Total</b>	<b>\$2,867,065.52</b>	

The Receiver does not know why IAS issued stock to these family members to then have the family members sell the stock and return some of the proceeds to IAS. One explanation may be that Neldon Johnson was attempting to create the illusion that IAS was earning revenues or that IAS needed operating revenue and Neldon Johnson determined that a means of obtaining operating revenue was by issuing stock to his family members and have them sell those shares on the public market. Whatever the purpose, the net effect of this practice was that people who bought IAS stock on the open market unknowingly provided operating revenue to IAS.

E. IAS Plan to Distribute Stock Widely. Documents recovered from the landfill reference a plan by Neldon Johnson to give shares of IAS stock to customers of the video store at Ream's Grocery in the 1990's, when the video store was managed by Neldon Johnson.

F. IAS Stock Used to Purchase Properties. Documents delivered to the Receiver by Nelson Snuffer demonstrate that five of the IAS-owned real properties were funded by IAS issuing stock to Nelson Snuffer. Nelson Snuffer sold the stock and deposited the proceeds in its trust account. Funds in the law firm's trust account were then used to purchase the five properties.

G. Possible Backdating of Documents. One of the RaPower documents Gary Peterson provided to the Receiver was a 2017 email to Neldon Johnson by someone other Gary Peterson advising Johnson about certain license agreements. The email appears to give guidance

to Neldon Johnson in how to backdate documents to be used in defense of the lawsuit filed by the United States in November 2015.

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

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

<b>Revenue into the Receivership Estate</b>	
<b>Source of Revenue</b>	<b>Amount In</b>
Real estate receipts <sup>42</sup>	\$5,456.00
Settlements	\$611,193.29
Bank interest	\$13,044.55
<b>Total</b>	<b>\$629,693.84</b>
Nelson Snuffer Funds <sup>43</sup>	\$735,202.22

<b>Expenditures</b>	
<b>Type of Expenditure</b>	<b>Amount</b>
Shepard living allowance <sup>44</sup>	\$4,320.00
Real estate appraisal, survey	\$13,153.44
Administrative expenses	\$61.45
DOJ fee award	\$49,140.53
Mediator fee, transcript <sup>45</sup>	\$2,760.15
<b>Total</b>	<b>\$69,435.57</b>

On February 6, 2020, the Receiver paid \$49,140.53 to the U.S. Department of Justice in satisfaction of its cost award, which was the first priority for distributions under paragraph 89 of the Corrected Receivership Order. That first priority of distributions is now satisfied.

<sup>42</sup> This includes a bid deposit of \$5,000 and a supplemental easement fee.

<sup>43</sup> These are funds held in reserve, pending a ruling from the Court on whether these funds are Receivership Property.

<sup>44</sup> This includes four monthly payments, including one payment of \$1,830.

<sup>45</sup> This consists of \$722.65 in court transcript costs, and \$2,037.50 in mediation fees for the Hale & Wood mediation.

Professional fees in the amount of \$486,077.23, covering the six-month period from July through December 2019 were paid during the quarter to the Receiver, his counsel, conflict counsel, and the forensic accountants. These were paid after approval of the fee applications by the Court.<sup>46</sup>

B. Bank Account Balances. The following table shows the balance of funds in the Receivership bank accounts at Wells Fargo Bank as of March 31, 2020:

<b>Bank Account Balances</b>	
<b>Account</b>	<b>Amount</b>
Checking account	\$8,432.42
High yield savings	\$3,818,213.39
<b>Total</b>	<b>\$3,826,645.81</b>

## **XI. NEXT STEPS**

The significant next steps in the Receivership will be:

A. Take Possession of Assets, Liquidate Assets. The Court has ordered Neldon and Glenda Johnson to deliver control of 36 vehicles to the Receiver. The Receiver will arrange for the sale of these vehicles. If the Court grants the Receiver's pending motions seeking turnover of real estate held in the names of Glenda Johnson and R. Gregory Shepard, the Receiver will sell those parcels of real estate. Real property in Texas was sold at auction in early April 2020. The Receiver is making repairs to the home in Elk Ridge, Utah to prepare it for obtaining appraisals when the Court approves the appraisers the Receiver has recommended.

B. File Additional Lawsuits. The Receiver is still evaluating some claims he may assert where the targets have signed tolling agreements or where the statute of limitations has not

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<sup>46</sup> [Docket No. 846](#), filed January 21, 2020 (Fourth Fee Application) and [Docket No. 895](#), filed March 30, 2020 (Fifth Fee Application).

expired. He may file a limited number of additional lawsuits. The Receiver will continue to consult with counsel for the United States in the lawsuits he files.

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

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

E. Pacific Stock Transfer Company Contempt. The Receiver will be making a recommendation to the Court recommending sanctions for the prior contempt by the Pacific Stock Transfer Company.

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

G. Appeal. The Receiver will continue to monitor proceedings in the two appeals relating to the Receivership Estate and take any required actions after rulings are issued.

## **XII. CONCLUSION**

Substantial progress was made during the Reporting Period. Significant settlements have been achieved. Discovery in pending litigation is moving forward. The Receiver obtained possession of the retainer funds held by the Nelson Snuffer law firm. Enormous effort was undertaken in assisting the United States in its motion for additional contempt sanctions, taking depositions, and participating in Court proceedings relating to those proceedings.

Much work remains to be accomplished. Significant portions of this remaining work are dependent on rulings pending before the Court and the appeals pending before the Tenth Circuit.

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

  
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Wayne Klein  
Receiver

DATED this 24<sup>th</sup> day of April, 2020.

**PARR BROWN GEE & LOVELESS**

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

**CERTIFICATE OF SERVICE**

IT IS HEREBY CERTIFIED that service of the above **RECEIVER'S SIXTH QUARTERLY STATUS REPORT** was electronically filed with the Clerk of the Court through the CM/ECF system on April 24th, 2020, which sent notice of the electronic filing to all counsel of record.

/s/ Michael S. Lehr