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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.; LTBI,
LLC; R. GREGORY SHEPARD; NELDON
JOHNSON; and ROGER FREEBORN,

Defendants.

**ORDER LIFTING LITIGATION STAY
TO ALLOW SETTLEMENT OF
SHEPARD TAX COURT LITIGATION**

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

The Honorable David Nuffer

R. Wayne Klein, the Court-Appointed Receiver, filed a motion (“Motion”) seeking a lift of the stay of litigation to allow a settlement of litigation pending in the United States Tax Court relating to R. Gregory Shepard (“Shepard”) and his wife, Diana C. Shepard. Based thereon and for good cause shown,

IT IS HEREBY ORDERED that:

1. The Motion is **GRANTED**.
2. The litigation stay is lifted to allow the IRS, Shepard and Diana C. Shepard

(collectively “Tax Court Parties”) to execute documents resolving United States Tax Court, Case No. 002826-18 (“Shepard Tax Court Case”) and to allow the Tax Court to enter any orders necessary to resolve matters pending before the Tax Court.

3. This Order is specifically conditioned on the following conditions and limitations:

a. The IRS assessments of taxes, penalties, interest or any other form of relief against Shepard will be treated as a fifth priority claim against Receivership Estate assets and the IRS will take no steps to execute on, place liens upon, seize, or otherwise attempt to collect or recover assets that the Receiver asserts are part of the Receivership Estate. To protect its interest, the IRS may take collection actions on assets of Diana C. Shepard, including filing a Notice or Notices of Federal Tax Lien;

b. Any interest that the IRS claims against the Shepards’ residence,¹ which is titled in the name of the Diana C. Shepard Revocable Trust, shall be subordinated to the claims of the Receiver. So long as the Receiver notifies the IRS that the Receiver is asserting that the Shepard residence is a Receivership Estate asset, the IRS shall not seek to enforce any claims against the Shepard residence. If the Shepards’ residence is found not to be a Receivership Estate asset, the IRS may enforce its interests in the residence. The Receiver is authorized to cooperate and coordinate with the IRS to assert control over the Shepard residence;

c. The Tax Court Parties will provide the Receiver with a copy of any executed settlement agreement or other documents resolving the Shepard Tax Court Case for his review before the documents are submitted to the Tax Court for action; and

d. The litigation stay is lifted for the sole purpose of allowing the Tax Court Parties to settle the Shepard Tax Court Case. If a settlement agreement is not submitted and the

¹ The Shepards’ residence is located at 858 W. Clover Meadow Dr., Salt Lake City, UT 84123.

Shepard Tax Court Case is not dismissed within sixty days of the Court's order lifting the stay, the Shepard Tax Court Case will automatically be stayed pursuant to paragraphs 44 to 48 of the Order.

Signed _____, 2019

BY THE COURT:

David Nuffer
United States District Judge