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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 RESPONSE TO NELSON,
SNUFFER, DAHLE & POULSEN, P.C.’S
RENEWED MOTION TO WITHDRAW
AS COUNSEL FOR ALL DEFENDANTS**

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

District Judge David Nuffer
Magistrate Judge Daphne A. Oberg

R. Wayne Klein, the Court-Appointed Receiver (“Receiver”) of RaPower-3, LLC, International Automated Systems, Inc., and LTB1, LLC (collectively “Receivership Entities”), as well as certain affiliated subsidiaries and entities (“Affiliated Entities”) and the assets of Neldon Johnson (“Johnson”) and R. Gregory Shepard (“Shepard”) hereby files this response to Nelson Snuffer Dahle & Poulsen, P.C.’s (“NSDP”) Renewed Motion to Withdraw as Counsel for All

Defendants (the “Motion”).¹ The Receiver submits this response to clarify the scope of the attorney dismissal contained in the Corrected Receivership Order (“CRO”)², and the Affiliates Order.³

The CRO dismissed the “directors, officers, managers, employees, trustees, investment advisors, accountants, *attorneys*, and other agents” of the Receivership *Entities*.⁴ Similarly, the Affiliates Order dismissed the attorneys and all other agents of the Affiliated Entities.⁵ The CRO and the Affiliates Order, however, did not dismiss attorneys for Johnson or Shepard. Instead, the CRO required that any filing by Johnson, Shepard, or the Receivership Entities “must contain a statement, made under penalty of perjury, identifying the source of the funds for the filing or submission in sufficient detail to show that the funds are not Receivership Property or otherwise derived from the solar energy scheme.”⁶ The Affiliates Order applied this language to the Affiliated Entities.⁷

In the Motion, NSDP states that the CRO dismissed “all attorneys for the Defendants” including Johnson and Shepard. That is incorrect. The CRO did not dismiss NSDP as counsel for Johnson and Shepard. The Motion also incorrectly states that the Receiver represents “these parties” referring to Receivership Entities, Johnson, and Shepard. Unlike the powers he has for the Receivership Entities and the Affiliated Entities, the Receiver does not have “all powers,

¹ [Docket No. 1032](#), filed December 9, 2020.

² [Docket No. 491](#), filed November 1, 2018.

³ [Docket No. 636](#), filed May 3, 2019.

⁴ [Docket No. 491](#), ¶ 9 (emphasis added). The CRO allowed NSDP to continue to represent the Receivership Entities “in the pending appeal of an order in this case.” *Id.* ¶ 10.

⁵ [Docket No. 636](#), ¶ 4.

⁶ [Docket No. 491](#), ¶ 10.

⁷ [Docket No. 636](#), ¶ 12.

authorities, rights, and privileges” of Johnson and Shepard.⁸ Nor does the Receiver have the duty to purse and preserve the claims of Johnson and Shepard as he does with the Receivership Entities and Affiliated Entities.⁹

Notwithstanding the above, the Receiver does not oppose the relief sought in the Motion, including NSDP’s withdrawal as counsel for Johnson and Shepard.

United States has authorized the Receiver to state that it agrees with the position taken in this response.

DATED this 14th day of December 2020.

PARR BROWN GEE & LOVELESS

/s/ Michael S. Lehr

Jonathan O. Hafen

Jeffery A. Balls

Michael S. Lehr

Attorneys for Receiver

⁸ *Id.* ¶ 11

⁹ *Id.* ¶ 12.

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the foregoing was electronically filed with the Clerk of the Court through the CM/ECF system on December __, 2020, which sent notice of the electronic filing to all counsel of record.

/s/ Michael S. Lehr