

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

Jeffrey 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 R. Wayne Klein

**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 NOTICE OF SALE
RESULTS**

**(Howard County, Texas Property: Parcel
No's R000046407, R000046408)**

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

District Judge David Nuffer

R. Wayne Klein, the Court-Appointed Receiver (the "Receiver") for RaPower-3, LLC, International Automated Systems, and LTB1 (collectively, "RaPower"), and the assets of Neldon Johnson and R. Gregory Shepard, by and through his counsel, hereby files this *Notice of Sale Results (Howard County, Texas Property: Parcel No's R000046407 and R000046408)*. In support hereof, the Receiver states as follows:

1. On March 2, 2020, the Court entered an *Order approving (1) Public Sale of Property Free and Clear of Interests, (2) Method and Form of Publication Notice, and (3) Public*

*Auction Procedures (Howard County Texas Property R000046407, R000046408)*¹ (the “Sale Order”), authorizing procedures for and the public sale of two adjacent parcels of real property in Howard County, Texas constituting approximately 628 acres, having parcel numbers R000046407 and R000046408 (the “Real Property”), free and clear of interests. A legal description of the Real Property is set forth in the Sale Order.

2. Pursuant to the Sale Order, the Receiver provided notice of the auction via publication of the Court-approved notice in the *Big Spring Herald* once a week for a period of four weeks prior to the auction date, on the Receiver’s website, and via mail solicitations of potential Texas buyers. The published legal notice indicated the Receiver had set an auction date of April 7, 2020. Evidence of the publication of notice is attached hereto as **Exhibit A**.

3. After publication, one additional bidder qualified to bid at the auction. The auction began with the stalking horse bid of \$400,000 and continued until the high bid of \$515,000 was received from Laredo Petroleum, Inc.. This was the approach prescribed by the Court approved “Auction Procedures” attached as Exhibit B to the *Receiver’s Motion Requesting Order Approving (1) Public Sale of Property Free and Clear of Interests, (2) Method and Form of Publication Notice, and (3) Public Auction Procedures*.²

4. The sale of the Real Property occurred on April 7, 2020 via telephone auction. Due to concerns over and travel restrictions related to Covid-19, both bidders consented to hold the auction via telephone conference call instead of in person.

5. Following the auction, the buyer and the Receiver signed all real estate documents

¹ [Docket No. 867](#), filed March 2, 2020.

² [Docket No. 857](#), filed February 13, 2020.

directly with each other and the buyer will record the deed. No title company was involved in the closing.

6. The following is a summary of the results of this sale.

Gross Sales Price	\$515,000.00
Property Tax Allowance	-\$3,429.93
Real Estate Commissions	-\$24,000.00 ³
Due Diligence Fees	<u>-\$6,565.65⁴</u>
NET SALES PROCEEDS	\$481,004.42

7. The bid deposit and entire remaining purchase amount were deposited into the operating account associated with the Receivership account. The Receiver expects to pay a fee for the preliminary title report he requested after receipt of the stalking horse bid.

8. Pursuant to the Auction Procedures, the bid deposit from the unsuccessful bidder was returned to it on April 7, 2020.

9. Due to Covid-19, the Howard County Deeds Recorder is not allowing in-person filing. The deed will be submitted by mail and is expected to be recorded around the end of April.

DATED this 21st day of April 2020.

PARR BROWN GEE & LOVELESS

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

³ The amount of real estate commissions was based on the stalking horse bid amount of \$400,000, not the final auction price. Because the closing was not done through a title company, the Receiver paid the real estate commissions directly to the listing agent.

⁴ The Receiver previously had agreed to reimburse the stalking horse bidder's out-of-pocket due diligence fees, in the event the stalking horse bidder was not the ultimate buyer of the property. This agreement allowed the stalking horse bidder to complete his due diligence before the auction date rather than having the offer contingent on post-sale due diligence.

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 April 21st, 2020, which sent notice of the electronic filing to all counsel of record.

/s/ Michael S. Lehr