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Attorneys for Court-Appointed Receiver R. Wayne Klein

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

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

NATIONAL NOTE OF UTAH, LC, a Utah
Limited Liability Company and WAYNE
LaMAR PALMER, and individual,

Defendants.

**RECEIVER'S MOTION AND
MEMORANDUM IN SUPPORT
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**

(CLEARVIEW BUSINESS PARK)

2:12-cv-00591 BSJ

The Honorable Bruce S. Jenkins

R. Wayne Klein, the Court-Appointed Receiver (the "Receiver") of National Note of Utah, LC, its subsidiaries and affiliates, and the assets of Wayne LaMar Palmer, by and through his counsel and pursuant to 28 U.S.C. §§ 2001(a) and 2002 and the *Order Appointing Receiver and Staying Litigation* entered by this Court in this case, respectfully requests that the Court

enter the proposed Order attached hereto as Exhibit B, approving (1) the public sale of certain real property described below pursuant to public sale free and clear of interests; (2) the Receiver's proposed method and form of publication notice for the public sale; and (3) approving the Receiver's proposed auction procedures governing such public sale set forth below. This Motion is supported by the Declaration of R. Wayne Klein, Receiver (the "Receiver Declaration").

MEMORANDUM OF SUPPORT

I.

BACKGROUND

1. On June 25, 2011, the above-captioned case was commenced by the Securities and Exchange Commission (the "SEC") against Defendants National Note of Utah, LC ("NNU") and Wayne LaMar Palmer ("Palmer") (collectively, the "Receivership Defendants"), and in conjunction therewith the Court entered, in relevant part, an Order Appointing Receiver and Staying Litigation (the "Receivership Order").¹ Pursuant to the Receivership Order, the Receiver was appointed, and NNU, and forty-one of its affiliated companies (the "Palmer Entities"), including Homeland Development I (collectively for purposes of this Motion, "NNU"), and all Palmer's assets were placed in the Receiver's control.²

2. The Court has directed and authorized the Receiver to, among other things, do the following:

- "[D]etermine the nature, location and value of all property interests of the Receivership Defendants and the Palmer Entities . . . [.]"³

¹ Docket No. 9 (Receivership Order).

² See generally, *id.*

³ *Id.* at ¶ 7(A).

- “To take custody, control and possession of all Receivership Property and records . . . [.]”⁴
- “To use Receivership Property for the benefit of the Receivership Estates and hold in his possession, custody and control all Receivership Property, pending further Order of this Court[.]”⁵
- “[T]o take immediate possession of all real property of the Receivership Defendants and the Palmer Entities”⁶
- “[T]ransfer, compromise, or otherwise dispose of any Receivership Property, other than real estate, in the ordinary course of business, on the terms and in the manner the Receiver deems most beneficial to the Receivership Estate, and with due regard to the realization of the true and proper value of such Receivership Property.”⁷
- “[L]ocate, list for sale or lease, engage a broker for sale or lease, cause the sale or lease, and take all necessary and reasonable actions to cause the sale or lease of all real property in the Receivership Estates, either at public or private sale, on terms and in the manner the Receiver deems most beneficial to the Receivership Estate, and with due regard to the realization of the true and proper value of such real property.”⁸
- “[S]ell, and transfer clear title to, all real property in the Receivership Estates” upon order of the Court “pursuant to procedures as may be required by this Court and additional authority such as 28 U.S.C. §§ 2001 and 2004.”⁹

⁴ *Id.* at ¶ 7(B).

⁵ *Id.* at ¶ 7(D).

⁶ *Id.* at ¶ 19.

⁷ *Id.* at ¶ 37.

⁸ *Id.* at ¶ 38.

⁹ *Id.* at ¶ 39.

II.

REAL PROPERTY TO BE SOLD AT AUCTION AND STALKING HORSE BID

The Property

3. Since his appointment, the Receiver has identified numerous real properties as being part of the Receivership Estate, and where appropriate has listed such properties for sale.¹⁰

4. Relevant to the present Motion is real property located at 1529 South Clearview Avenue, Mesa, Arizona 85209 (the "Property").

Value and Marketing of the Property

5. The Receiver obtained an appraisal of the Property on December 18, 2012 from Mark M. Grumley and Jay S. Lefevers at Lefevers Viewpoint Group, Inc. (the "Appraisal"), a copy of which is attached to the Receiver Declaration as Exhibit A for the Court's review.¹¹ The Appraisal values the Property at \$577,750 in its current condition.¹²

6. On or about November 14, 2012, the Receiver caused the Property to be listed for sale through Treasured Real Estate, LLC (the "Listing Agent") for \$415,954.00. A copy of the Listing Agreement is attached to the Receiver Declaration as Exhibit B.¹³

7. The Property has been marketed through the multiple listing service and has been actively marketed by the realtor.¹⁴

8. Between November 20, 2012 and December 28, 2012, the Receiver received

¹⁰ Receiver Declaration ¶ 5.

¹¹ Receiver Declaration ¶ 7 & Exh. A (Appraisal). Because the Receiver proposes a public sale, appointment of three appraisers by the Court is not required. *See* 28 U.S.C. § 2001(a). But, the Receiver has provided the Court with a copy of the Appraisal that he obtained for review.

¹² Receiver Declaration, Exh.A, p. 21.

¹³ Receiver Declaration ¶ 8 & Exh. B (Listing Agreement).

¹⁴ Receiver Declaration ¶ 9.

thirteen offers for the Property ranging from approximately \$283,605 to \$568,000. The Receiver asked the bidders with the seven highest bids to submit any higher and better offers, and he ultimately decided that the “Stalking Horse Bid” described below is the highest and best bid as of this time.¹⁵

The Proposed Purchase Agreement and Stalking Horse Bid at Auction

9. The Receiver has received an offer to purchase the Property pursuant to the terms of the “Purchase Agreement” attached to the Receiver Declaration as Exhibit C, which is cash bid in the amount of \$737,000, with a \$20,000 deposit, subject to higher and better offers.¹⁶

10. The Purchase Agreement has been negotiated by the Receiver with the prospective purchaser in good faith and at arms’ length.¹⁷

11. The Receiver proposes to use this offer as a stalking horse bid at the public auction described below (the “Stalking Horse Bid”).¹⁸

Sale Costs and Net Sale Proceeds

12. The Receiver anticipates paying the ordinary costs of the sale, including market-rate closing costs and a standard 5.50% realtor commission at the time of closing of the sale of the Property, or a 5.00% realtor commission in the event that the Listing Agent also represents the purchaser.¹⁹ The realtor commission will be paid even if a higher and better offer is obtained at auction, inasmuch as the realtor brought the Stalking Horse Bid to the Receiver; however, the

¹⁵ Receiver Declaration ¶ 10.

¹⁶ Receiver Declaration ¶ 11 & Exh. C (Purchase Agreement).

¹⁷ Receiver Declaration ¶ 12.

¹⁸ Receiver Declaration ¶ 13.

¹⁹ Receiver Declaration ¶ 14 & Exh. B (Listing Agreement).

commission will be capped at the amount of the Stalking Horse Bid.²⁰

13. Any interests against the Property, other than closing costs, property taxes and a construction lien held by JWW Design Builders, Inc. (the “JWW Lien”), will not be paid at the time of closing of the sale. Rather, as proposed, any such interests (to the extent that they exist and without any waiver of the Receiver’s rights and defenses related thereto) will survive the sale and will attach to the net sale proceeds, these being the sale proceeds, less the ordinary costs of sale (the “Net Sale Proceeds”).²¹

14. The Receiver will separately account for the Net Sale Proceeds pending resolution of any disputes related to interests that may exist against the Property.²²

Free and Clear Sale

15. The Receiver proposes to sell the Property free and clear of all interests therein, with any interests that may exist attaching to the Net Sale Proceeds. In so doing, the Receiver is in no way waiving any rights, claims, interests or defenses to any claims or interests made against the Property or to the Net Sale Proceeds.²³

16. To determine interests, if any against the Property, the Receiver obtained a preliminary title report (the “Title Report”),²⁴ a copy of which is attached as Exhibit D to the Receiver Declaration.

17. According to the Title Report, the following exceptions to title exist: (a) property

²⁰ Receiver Declaration ¶ 14.

²¹ Receiver Declaration ¶ 15.

²² Receiver Declaration ¶ 16.

²³ Receiver Declaration ¶ 17.

²⁴ Receiver Declaration ¶ 18 & Exh. D (Title Report).

taxes for the period of 2008-2012; (b) twenty nine Assignments of Beneficial Interests have been filed against the Property, the holders of which are identified on the Certificate of Service attached hereto; and (c) three liens, including the JWW Lien, have been filed against the Property.²⁵

18. A copy of the Motion and the Receiver Declaration are being served on the holders of these purported interests.²⁶

Best Interests

19. The Receiver believes that the sale of Property as proposed is beneficial for and in the best interests of the Receivership Estate based on the appraised value of the Property and the amount of the Stalking Horse Bid, which was obtained through good faith and arms' length negotiations.²⁷

20. The Stalking Horse Bid is significantly greater than the appraised value, and through the proposed auction, the purchase price cannot go lower and might increase.²⁸

21. Notice of the auction described below will be served on all persons who submitted offers to purchase the Property during the Receiver's initial marketing of the Property, and will be posted on the Receiver's website.²⁹

22. The SEC has been informed of the material terms of the sale, and has no objection

²⁵ Receiver Declaration ¶ 19 & Exh. D (Title Report).

²⁶ Receiver Declaration ¶ 20.

²⁷ Receiver Declaration ¶ 21.

²⁸ Receiver Declaration ¶ 22.

²⁹ Receiver Declaration ¶ 23.

thereto.³⁰

III.

APPLICABLE LAW

23. The Receivership Order, as set forth above anticipates the relief sought by the Receiver herein and is within the scope of his duties under that Order.³¹

24. Section 2001(a) of title 28 of the United States Code permits the Receiver to sell property of the receivership estate:

[A]t public sale in the district wherein such receiver was first appointed, at the courthouse of the county, parish, or city situated therein in which the greater part of the property in such district is located, or on the premises or some parcel thereof located in such county, parish, or city, as such court directs. Such sale shall be upon such terms and conditions as the Court directs.³²

25. Section 2002 of title 28 of the United States Code requires that notice of such public sale be published, in relevant part, as follows:

once a week for at least four weeks prior to the sale in at least one newspaper regularly issued and of general circulation in the county, state, or judicial district of the United States wherein the realty is situated.³³

IV.

REQUESTED RELIEF

26. The Receiver requests that the Court enter the proposed Order attached hereto, thus (a) authorizing the sale of the Property free and clear of interests; (b) approving the form and method of publication notice as proposed herein; and (c) approving the proposed "Auction

³⁰ Receiver Declaration ¶ 24.

³¹ See *supra* ¶¶ 1-2.

³² 28 U.S.C. § 2001(a).

³³ 28 U.S.C. § 2002.

Procedures” described below.

Sale Free and Clear of Interests

27. Sale of the Property as proposed is within the scope of the Receiver’s authority under the Receivership Order as quoted in ¶ 2 above and 28 U.S.C. §§ 2001(a) and 2002 both quoted in ¶¶ 24 and 25 above, it is in the best interests of the Receivership Estate, and the sale serves the purposes of the receivership by providing a “realization of the true and proper value” of the Property.³⁴

28. The Court may order a sale of the Property free and clear of interests, provided that parties claiming interests against the property are given proper notice. Here, such notice will be provided, with any interests that may ultimately be determined to exist attaching to the Net Sale Proceeds.³⁵

29. Upon completion of the sale and after the conclusion of the public auction discussed below, the Receiver will file with the Court a “Notice of Sale Results,” stating the purchase price that was obtained at public auction and reporting on the Net Sale Proceeds of the sale. This Notice of Sale Results will be served on those parties asserting interests in the Property noted in ¶ 18 above.³⁶

Proposed Publication Notice

30. To comply with the requirement of publication notice for public sales set forth in 28 U.S.C. § 2002, the Receiver seeks approval of the method and form of publication notice of the proposed public sale.

³⁴ Receivership Order ¶ 38; Receiver Declaration ¶ 21.

³⁵ Receiver Declaration ¶ 15.

³⁶ Receiver Declaration ¶ 25.

31. Accordingly, the Receiver proposes that the following notice be published in *The Salt Lake Tribune*, a newspaper published in Salt Lake City, Utah, and in the *East Valley Tribune*, a newspaper published in Mesa, Arizona, once a week for a period of four weeks prior to the public sale (the “Publication Notice Time”):

R. Wayne Klein, Receiver for National Note of Utah, LC and its affiliated entities (the “Receiver”) in the civil case styled as *Securities and Exchange Comm. v. National Note of Utah, LC et al.*, Civ. Case No. 2:12-cv-00591 (D. Utah) (“Civil Case”), gives notice of his intent to sell certain real property located at 1529 South Clearview Avenue, Mesa, Arizona 85209 (the “Property”) through a public auction to the highest bidder payable in lawful money of the United States on the ___ day of _____, 2013 at the hour of _____ on the Property at the above stated address, or as may be continued from time to time by the Receiver (the “Auction”). The Property will be sold at the Auction free and clear of all interests, “as is” with no representations and warranties. The Receiver has accepted an initial bid of \$737,000.00 together with a \$20,000 deposit to act as the opening “Stalking Horse Bid” at Auction. Only “Qualified Bidders” may participate in the Auction. To be a Qualified Bidder, you must comply with the “Auction Procedures” that have been approved in the Civil Case, which Auction Procedures may be obtained upon request made to the Receiver’s counsel at: Dorsey & Whitney LLP, attn: Michelle Montoya, 136 South Main Street, Suite 1000, Salt Lake City, Utah 84101; montoya.michelle@dorsey.com.

32. The Receiver maintains that the above proposed method and form of publication notice is in accordance with 28 U.S.C. §§ 2001(a) and 2002 and, therefore, should be approved.

Proposed Auction Procedures

33. The Receiver requests that the Court enter an Order approving the following proposed procedures to govern the public sale (collectively, or as may be amended by the Court’s Order, the “Auction Procedures”), a copy of which are attached hereto as **Exhibit A**:

- a. The Receiver may conduct an auction of certain real property located at 1529 South Clearview Avenue, Mesa, Arizona 85209 (the “Property”) at the conclusion of the Publication Notice Time (the “Auction”) in accordance with these Auction Procedures.
- b. The Receiver will facilitate reasonable requests for inspections of the Property by interested parties prior to the “Bid Deadline” (defined below).

- c. Pursuant to the Purchase Agreement attached as Exhibit C to the Receiver Declaration, the Receiver has received an offer to purchase the Property for \$737,000.00 which includes a \$20,000.00 deposit, subject to higher and better bids at the Auction (the "SH Agreement"). The Receiver is treating the offer in the SH Agreement as the opening bid at Auction and is referred to herein as the "Stalking Horse Bid."
- d. To participate in the Auction, the potential purchaser must be a "Qualified Bidder."
- e. No person will be deemed to be a Qualified Bidder unless the person:
 - i. Delivers to the Receiver for the benefit of the Receivership Estate cash or a cashier's check in the amount of \$20,000.00 as an initial deposit (all such deposits and the deposit posted in conjunction with the Stalking Horse Bid, being collectively, the "Initial Deposit"), by no later than 5:00 p.m. Mountain Time at least two business days prior to the date set for the Auction (the "Bid Deadline");
 - ii. Agrees in writing that its Initial Deposit is non-refundable pending the Sale Closing Date (defined below) and will be applied as set forth in these Auction Procedures;
 - iii. Agrees in writing to the approved Auction Procedures;
 - iv. Represents and warrants in writing that it has the ability to perform at Auction and on the Sale Closing Date (defined below);
 - v. Agrees in writing that the sale of the Property is "AS IS" with no representations and warranties; and
 - vi. Appears in person or through a qualified agent at the Auction and performs at Auction, as determined in the sole discretion of the Receiver, as provided in these Auction Procedures.
- f. If no Qualified Bidders exist on the expiration of the Bid Deadline, the Receiver, in his sole discretion, need not conduct the Auction and may sell the Property to the holder of the Stalking Horse Bid pursuant to the terms of the SH Agreement and such sale shall be deemed to be a sale of the Property at public auction under all applicable law.

- g. The Receiver will conduct the Auction. The Auction shall proceed in rounds. Bidding at the Auction shall begin with an initial minimum overbid of the Stalking Horse Bid in an amount of \$5,000.00 in cash, and shall subsequently continue in \$5,000.00 minimum cash overbid increments. However, the holder of the Stalking Horse Bid will be allowed to match any bid made by a Qualified Bidder without increasing such bid by the \$5,000 minimum cash overbid amount. Bidding will continue until the Receiver determines that he has received the highest and best offer for the Property, at which time he will close the Auction, with the person making the last bid prior to the Receiver's close of the Auction bound to purchase the Property pursuant to the terms of the approved Auction Procedures (the "Successful Bidder").
- h. Each Qualified Bidder and the holder of the Stalking Horse Bid agree that its last offer made is irrevocable until the date that sale of the Property closes to the Successful Bidder (the "Sale Closing Date").
- i. Each Initial Deposit shall be retained by the Receiver until Sale Closing Date. On the Sale Closing Date, the Initial Deposit of the Successful Bidder will be applied to the purchase price accepted at Auction by the Receiver. Within ten business days of Sale Closing Date, the Receiver shall return all other Initial Deposits. In the event that the Successful Bidder's sale does not close, the Receiver (i) shall retain the Initial Deposit of the Successful Bidder as damages, and (ii) the Qualified Bidder who made the next highest and best offer at Auction (the "Back-Up Bid") shall be deemed the Successful Bidder. The Initial Deposit of the Qualified Bidder with the Back-Up Bid shall be applied by the Receiver to the purchase offer made at Auction. The Receiver may repeat the same Back-Up Bid procedure provided herein to each Qualified Bidder, in the order of the highest and best offers received at Auction.
- j. Immediately upon the close of the Auction, the Successful Bidder must (i) sign a purchase agreement on terms materially similar to the terms of sale stated in SH Agreement; and (ii) must deliver to the Receiver an additional non-refundable deposit of 10% of the purchase price accepted at Auction (the "10% Deposit"). In the event that the Sale Closing Date does not occur for the Successful Bidder, the Successful Bidder's Initial Deposit and this 10% Deposit will be retained by the Receiver as damages.

34. The Receiver submits that the proposed Auction Procedures are permitted under 28 U.S.C. §§ 2001(a) and 2002 and, therefore, requests that the Court approve the same.

CONCLUSION

Accordingly, for the reasons set forth herein, the Receiver requests that the Court enter

the proposed Order attached hereto as **Exhibit B**, thus (a) authorizing the sale of the Property free and clear of interests; (b) approving the form and method of publication notice as proposed herein; and (c) approving the proposed Auction Procedures. The Receiver also requests any other relief appropriate under the circumstances.

DATED this 18th day of February, 2013.

DORSEY & WHITNEY LLP

/s/ Jeffrey M. Armington

Peggy Hunt

Chris Martinez

Jeffrey M. Armington

Attorneys for Receiver

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the above **RECEIVER'S MOTION AND MEMORANDUM IN SUPPORT 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 (CLEARVIEW BUSINESS PARK)** was filed with the Court on this 18th day of February, 2013, and served via ECF on all parties who have requested notice in this case and was served via email on this 18th day of February, 2013, on the following:

Thomas M. Melton
Daniel J. Wadley
Paul N. Feindt
Alison J. Okinaka
SECURITIES AND EXCHANGE COMMISSION
15 W. South Temple, Suite 1800
Salt Lake City, UT 84101
meltont@sec.gov
wadleyd@sec.gov
feindtp@sec.gov
okinakaa@sec.gov

Attorneys for Plaintiff Securities and Exchange Commission

Brennan Moss
Pia Anderson Dorius Reynard Moss
222 South Main, Suite 1830
Salt Lake City, UT 84101

Attorneys for Defendant Wayne Palmer

/s/ Jeffrey M. Armington

Furthermore, I certify that on the 18th day of February, 2013, the **RECEIVER'S MOTION AND MEMORANDUM IN SUPPORT 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 (CLEARVIEW BUSINESS PARK)** was served on the following parties by U.S. Mail postage prepaid:

Maricopa County Treasurer
301 W. Jefferson Street, Room 100
Phoenix, AZ 85003-2199

Gutierrez Landscape, LLC
c/o Michael Zdancewicz
Windtberg & Zdancewicz, PLC
7551 South Willow, Suite 102
Tempe, AZ 85283

Southwest Asphalt Paving
1302 W. Driver's Way
Tempe, AZ 85284

Mike Erzig
JSW Design Builders
1444 N. Higley Road
Gilbert, AZ 85234

Amy D. Beatty
1679 Pine Tree Drive
Gloucester Point, VA 23062

Equity Trust Company
Custodian FBO for Teresa E. Lynch
P.O. Box 1529
Elyria, OH 44036

American Pension Services, Inc.
Custodian FBO for Girish Juneja
4168 West 12600 South, Ste. 300
Riverton, UT 84096

Equity Trust Company
Custodian FBO for Teresa Lynch
12 Westminster Court
Belle Mead, NJ 08502

Summer Adele Froehlich
129 North 10th Street, Ste. 107
Lincoln, NE 68508

Margaret H. Sedenquist
650 Sierra Madre Villa, Ste. 200
Pasadena, CA 91007

Kristopher Ryan or Troy Hodell
2408 West Jordan Haven Court
South Jordan, UT 84095

Hannah M. Mathison
9911 Treasure Circle
South Jordan, UT 84095

Hollie E. Mathison
9911 Treasure Circle
South Jordan, UT 84095

Amelia K. Mathison
9911 Treasure Circle
South Jordan, UT 84095

Entrust Administration, Inc.
Custodian FBO for Dorothy
Schmeling
555 – 12th Street, Ste. 1250
Oakland, CA 94607

Entrust Administration, Inc.
Custodian FBO for Dorothy
Schmeling
IRA 40-0009
5601 NW 8th Avenue
Vancouver WA 98663

John or Dorothy Murphy
38890 Desert Greens Drive
Palm Desert, CA 94607

Leslie Paula Proffit
4230 Truckee River Trail
Reno, NV 89523

Yvonne O. Moore
65 Woodside Drive
Provo, UT 84604

Millennium Trust Company, LLC
Custodian FBO for Thomas Van
Den Berghe
820 Jorie Blvd, Ste. 420
Oak Brook, IL 60523

Millennium Trust Company, LLC
Custodian FBO Thomas Van Den
Berghe
13032 South Galloway Cove
Riverton, UT 84065

Michael H. Hall
2557 Rampart Terrace
Reno, NV 89509-8362

Cynthia J. Morrey GST
Nonexempt Trust
2557 Rampart Terrace
Reno, NV 89509-8362

American Pension Services, Inc.
Custodian FBO for C. Ann Heath
4168 West 12600 South, Ste. 300
Riverton, UT 84096

American Pension Services, Inc.
Custodian FBO for C. Ann Heath
2098 South 850 East
Bountiful, UT 84010

Curtis or Kim Dapper
13618 South 500 East
Draper, UT 84020

American Pension Services, Inc.
Custodian FBO for Nicholas Tuttle
4168 West 12600 South, Ste. 300
Riverton, UT 84096

American Pension Services,
Inc./FUB Nicholas Tuttle IRA
#12520
3800 Scott St, #12
San Francisco, CA 94123

Fahey Survivors Revocable Trust
Gloria R. Fahey, C/O
Jackie Christensen
1575 North 300 East
Pleasant Grove, UT 84062

Nicholas or Marissa Tuttle
3800 Scott St, #12
San Francisco, CA 94123

Vetco, Inc.
Greg Jones
P.O. Box 52470
Sparks, NV 89435

Richard Kermit Fulmer
7532 Michelle Way
Sandy, UT 84093

Anne Keenan or Brian Pascale
7546 N. Outlook Lane
Prescott Valley, AZ 86315

Stephens Family Revocable
Living Trust
Foster or Janet Stephens
2607 Silver Bell Drive
Riverbank, CA 95367

Kenneth W. or Lisa R. Gayler
2063 Elk Creek Court
Riverton, UT 84065

/s/ Jeffrey M. Armington

EXHIBIT A

AUCTION PROCEDURES

SALE OF REAL ESTATE (CLEARVIEW PROPERTY)

R. Wayne Klein, the Court-Appointed Receiver (the "Receiver") of National Note of Utah, LC, its subsidiaries and affiliates, and the assets of Wayne LaMar Palmer in the case styled *Securities and Exchange Commission v. National Note of Utah, LC et al*, Case No. 2:12-cv-00591 BSJ, in the United States District Court for the District of Utah (the "Civil Case") will conduct a public auction of certain real property located at 1529 South Clearview Avenue, Mesa, Arizona 85209 (the "Property") on the __ day of _____, 2013 at the hour of ____ on the Property at the above stated address, or as may be continued from time to time by the Receiver (the "Auction").

The Receiver will conduct the Auction in accordance with the procedures listed below (collectively, the "Auction Procedures"):

- a. The Receiver will facilitate reasonable requests for inspections of the Property by interested parties prior to the "Bid Deadline" (defined below).
- b. Pursuant to the Purchase Agreement attached as Exhibit C to the Receiver Declaration [Civil Case Docket No. []], the Receiver has received an offer to purchase the Property for \$737,000.00 which includes a \$20,000.00 deposit, subject to higher and better bids at the Auction (the "SH Agreement"). The Receiver is treating the offer in the SH Agreement as the opening bid at Auction and is referred to herein as the "Stalking Horse Bid."
- c. To participate in the Auction, the potential purchaser must be a "Qualified Bidder."
- d. No person will be deemed to be a Qualified Bidder unless the person:
 - i. Delivers to the Receiver for the benefit of the Receivership Estate cash or a cashier's check in the amount of \$20,000.00 as an initial deposit (all such deposits and the deposit posted in conjunction with the Stalking Horse Bid, being collectively, the "Initial Deposit"), by no later than 5:00 p.m. Mountain Time at least two business days prior to the date set for the

Auction (the "Bid Deadline");

ii. Agrees in writing that its Initial Deposit is non-refundable pending the Sale Closing Date (defined below) and will be applied as set forth in these Auction Procedures;

iii. Agrees in writing to the approved Auction Procedures;

iv. Represents and warrants in writing that it has the ability to perform at Auction and on the Sale Closing Date (defined below);

v. Agrees in writing that the sale of the Property is "AS IS" with no representations and warranties; and

vi. Appears in person or through a qualified agent at the Auction and performs at Auction, as determined in the sole discretion of the Receiver, as provided in these Auction Procedures.

e. If no Qualified Bidders exist on the expiration of the Bid Deadline, the Receiver, in his sole discretion, need not conduct the Auction and may sell the Property to the holder of the Stalking Horse Bid pursuant to the terms of the SH Agreement and such sale shall be deemed to be a sale of the Property at public auction under all applicable law.

f. The Receiver will conduct the Auction. The Auction shall proceed in rounds. Bidding at the Auction shall begin with an initial minimum overbid of the Stalking Horse Bid in an amount of \$5,000.00 in cash, and shall subsequently continue in \$5,000.00 minimum cash overbid increments. However, the holder of the Stalking Horse Bid will be allowed to match any bid made by a Qualified Bidder without increasing such bid by the \$5,000 minimum cash overbid amount. Bidding will continue until the Receiver determines that he has received the highest and best offer for the Property, at which time he will close the Auction, with the person making the last bid prior to the Receiver's close of the Auction bound to purchase the Property pursuant to the terms of the approved Auction Procedures (the "Successful Bidder").

g. Each Qualified Bidder and the holder of the Stalking Horse Bid agree that its last offer made is irrevocable until the date that sale of the Property closes to the Successful Bidder (the "Sale Closing Date").

h. Each Initial Deposit shall be retained by the Receiver until Sale Closing Date. On the Sale Closing Date, the Initial Deposit of the Successful Bidder will be applied

to the purchase price accepted at Auction by the Receiver. Within ten business days of Sale Closing Date, the Receiver shall return all other Initial Deposits. In the event that the Successful Bidder's sale does not close, the Receiver (i) shall retain the Initial Deposit of the Successful Bidder as damages, and (ii) the Qualified Bidder who made the next highest and best offer at Auction (the "Back-Up Bid") shall be deemed the Successful Bidder. The Initial Deposit of the Qualified Bidder with the Back-Up Bid shall be applied by the Receiver to the purchase offer made at Auction. The Receiver may repeat the same Back-Up Bid procedure provided herein to each Qualified Bidder, in the order of the highest and best offers received at Auction.

- i. Immediately upon the close of the Auction, the Successful Bidder must (i) sign a purchase agreement on terms materially similar to the terms of sale stated in SH Agreement; and (ii) must deliver to the Receiver an additional non-refundable deposit of 10% of the purchase price accepted at Auction (the "10% Deposit"). In the event that the Sale Closing Date does not occur for the Successful Bidder, the Successful Bidder's Initial Deposit and this 10% Deposit will be retained by the Receiver as damages.

AGREED TO BY: _____

Its: _____