

Peggy Hunt (Utah State Bar No. 6060)\
Chris Martinez (Utah State Bar No. 11152)
Jeffrey M. Armington (Utah State Bar No. 14050)

DORSEY & WHITNEY LLP

136 South Main Street, Suite 1000

Salt Lake City, UT 84101-1685

Telephone: (801) 933-7360

Facsimile: (801) 933-7373

Email: hunt.peggy@dorsey.com

martinez.chris@dorsey.com

armington.jeff@dorsey.com

Attorneys for Court-Appointed Receiver R. Wayne Klein

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

<p>SECURITIES AND EXCHANGE COMMISSION,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>NATIONAL NOTE OF UTAH, LC, a Utah Limited Liability Company and WAYNE LaMAR PALMER, and individual,</p> <p style="text-align: center;">Defendants.</p>	<p>RECEIVER’S MOTION FOR COURT TO APPOINT APPRAISER FOR ELKHORN RIDGE LOTS AND MEMORANDUM IN SUPPORT</p> <p>2:12-cv-00591 BSJ</p> <p>The Honorable Bruce S. Jenkins</p>
--	--

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(b) hereby files this *Motion For Court to Appoint Appraiser for Elkhorn Ridge Lots* (the “Motion”). By this Motion, the Receiver asks that the Court appoint Allen E. Burris (the “Appraiser” or “Mr. Burris”) to appraise various parcels of real property, specifically lots 3, 6, 7, 9-47, each located in the Elkhorn Ridge Estates subdivision located in Oneida County, near Malad, Idaho (collectively, the “Elkhorn Lots”), which are owned by Elkhorn Ridge, LLC, one of National Note of Utah, LC’s affiliates and as

such, is an entity of the Receivership Estate. The purpose of this Motion is to allow the Receiver to comply with his duties associated with private sales of property pursuant to 28 U.S.C. § 2001(b). It is respectfully submitted, that this Motion should be granted because the Appraiser is a certified appraiser in the State of Idaho and is disinterested in the sale of the Elkhorn Lots.

A proposed Order is attached hereto as **Exhibit A**.

MEMORANDUM IN SUPPORT

I.

STATEMENT OF FACTS

1. The Receiver is currently marketing the Elkhorn Lots for private sale.
2. To be confirmed, any private sale will require three appraisals by Court approved appraisers.¹
3. On December 4, 2013, the Court entered an *Order Appointing Appraisers for Elkhorn Ridge Lots*, appointing Jordan Jensen, Val C. Jensen, and Angela Bair as appraisers for the Elkhorn Lots.² Val C. Jensen subsequently informed the Receiver that he was unable to perform the appraisal. As a result, this Motion seeks the appointment of Mr. Burris as a substitute for Val C. Jensen.
4. Mr. Burris is a Certified Residential Real Property Appraiser in the State of Idaho. Attached hereto as **Exhibit B** is a true and correct copy of information pertaining to the Idaho Real Estate Appraiser license of Allen E. Burris. The Appraiser is an independent, reputable professional and, to the best of the Receiver's knowledge and belief, has no present or prospective interest in the Elkhorn Lots.

¹ 28 U.S.C. § 2001(b).

² Docket No. 550.

5. The Receiver has requested the Appraiser's services, subject to Court approval, and the Appraiser has indicated that he is able and willing to provide appraisals for the Elkhorn Lots at his normal and customary rate. Consequently, the Receiver requests that the Court appoint the Appraiser to appraise Elkhorn Lot Nos. 3, 6, 7, 9-47.

6. As part of his appraisals, the Appraiser will sign an Appraiser's Certification affirming that he is not biased and is not basing his appraisal on a predetermined value. Moreover, the Appraiser will represent that he has no present or prospective interest in the Elkhorn Lots. Further, if this Motion is granted, the Receiver will notify the Appraiser of his appointment by the Court.

II.

ARGUMENT

The Receivership Order vests the Receiver with authority to sell and transfer title to all real property in the Receivership Estate upon order of the Court pursuant to procedures as may be required by the Court and additional authority such as 28 U.S.C. § 2001.³ Section 2001(b) of title 28 of the United States Code requires that a private sale of property only be confirmed based on appraisals of three disinterested appraisers who have been appointed by the Court.⁴

The Receiver asks that the Court appoint the Appraiser as one of the three Court-appointed appraisers of the Elkhorn Lots so as to facilitate his private sale of the Elkhorn Lots. The Appraiser is a certified residential real property appraiser and, upon information and belief, is disinterested in the sale of the Elkhorn Lots. The Appraiser will sign an Appraiser's Certification affirming that he is not biased and is not basing his appraisal on a predetermined

³ Docket No. 9 (Receivership Order) at ¶ 39.

⁴ See 28 U.S.C. § 2001(b).

value.

In sum, the Appraiser is independent and disinterested and should be appointed by the Court pursuant to 28 U.S.C. § 2001(b).

DATED this 28th day of March, 2014.

DORSEY & WHITNEY LLP

/s/ Peggy Hunt

Peggy Hunt

Chris Martinez

Jeffrey M. Armington

Attorneys for Receiver

CERTIFICATE OF SERVICE

I hereby certify that the above **RECEIVER'S MOTION FOR COURT TO APPOINT APPRAISER FOR ELKHORN RIDGE LOTS AND MEMORANDUM IN SUPPORT** was filed with the Court on this 28th day of March, 2014, and served via ECF on all parties who have requested notice in this case.

/s/ Jeffrey M. Armington