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

<p>SECURITIES AND EXCHANGE COMMISSION,</p> <p style="text-align: right;">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: right;">Defendants.</p>	<p><b>RECEIVER’S MOTION TO APPOINT APPRAISERS IN CONNECTION WITH POTENTIAL PRIVATE SALE OF MIDDLETON IDAHO HOMES AND MEMORANDUM IN SUPPORT</b></p> <p>2:12-cv-00591 BSJ</p> <p>The Honorable Bruce S. Jenkins</p>
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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 to Appoint Appraisers in Connection with the Potential Private Sale of Middleton Idaho Homes* (the “Motion”). By this Motion, the Receiver asks that the Court appoint (a) Richard A. Bell (“Bell”), (b) Adam D. Fullmer (“Fullmer”), and (c) Christopher A. Brown (“Brown” and together with Bell and Fullmer, the “Appraisers”) to appraise two homes located in Middleton, Idaho (the “Homes”), which are owned by Riverbend Estates, LC, one of National Note of Utah, LC’s affiliates and an

entity of the Receivership Estate. The Homes are adjacent to the Riverbend land that was relinquished to the secured lender pursuant to a settlement agreement approved by the Court.<sup>1</sup> The Appraisers are certified appraisers in the State of Idaho and to the best of the Receiver's knowledge and belief are disinterested in this case. Thus, the Appraisers should be approved as Court-appointed Appraisers of the Homes.

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

## **MEMORANDUM IN SUPPORT**

### **I.**

#### **STATEMENT OF FACTS**

1. The Homes are property of the Receivership Estate, and have the following street addresses:

- 420 S. 1<sup>st</sup> Ave E, Middleton, Idaho 83644, and
- 325 S. Hawthorne Dr., Middleton, Idaho 83644.

2. The Homes are currently being rented to tenants through the services of a professional property manager and are generating approximately \$1,300.00 in monthly net income for the Receivership Estate.<sup>2</sup> The Receiver has determined, however, that it may be in the best interest of the Receivership Estate to market the Homes for private sale.

3. To be confirmed, any private sale will require three appraisals by Court approved appraisers.<sup>3</sup>

4. The Appraisers are independent, reputable professionals with no present or

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<sup>1</sup> Docket No. 590.

<sup>2</sup> See *Sixth Status Report of R. Wayne Klein, Receiver for the Quarter Ending December 31, 2013* [Docket No. 598] at p. 4.

<sup>3</sup> 28 U.S.C. § 2001(b).

prospective interest in the Homes. Attached hereto as **Exhibit B** is a true and correct copy of information pertaining to the qualifications and the Idaho Certified Residential Appraiser license of Bell. Attached hereto as **Exhibit C** is a true and correct copy of information pertaining to the qualifications and the Idaho Certified Residential Appraiser license of Fullmer. Also, attached hereto as **Exhibit D** is a true and correct copy of information pertaining to the qualifications and the Idaho Certified Residential Appraiser license of Brown.

5. The Receiver has requested the Appraisers' services, subject to Court approval, and the Appraisers have indicated that they are able and willing to provide appraisals for the Homes at their normal and customary rates. Consequently, the Receiver requests that the Court appoint the Appraisers to appraise the Homes.

6. As part of their appraisals, each of the Appraisers will sign an Appraiser's Certification affirming that he is not biased and is not basing his appraisals on a predetermined value. Moreover, each of the Appraisers will represent that he has no present or prospective interest in the Homes. Further, if this Motion is granted, the Receiver will notify each of the Appraisers 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.<sup>4</sup> Pursuant to 28 U.S.C. § 2001(b), prior to confirmation of any private sale of real property, this Court shall

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<sup>4</sup> Docket No. 9 (Receivership Order) at ¶ 39.

appoint three disinterested persons to appraise the property.<sup>5</sup>

The Receiver asks that the Court appoint the Appraisers as the Court-appointed appraisers of the Homes so as to facilitate his private sale of the Homes. Bell, Fullmer, and Brown are certified appraisers and, to the best of the Receiver's information and belief, are disinterested. Each of the Appraisers will sign an Appraiser's Certification affirming that he is not biased and is not basing his appraisal on a predetermined value.

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

DATED this 4th day of April, 2014.

**DORSEY & WHITNEY LLP**

/s/ Peggy Hunt

Peggy Hunt  
Chris Martinez  
Jeffrey M. Armington  
*Attorneys for Receiver*

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<sup>5</sup> See 28 U.S.C. § 2001(b).

**CERTIFICATE OF SERVICE**

I hereby certify that the above **RECEIVER'S MOTION TO APPOINT APPRAISERS IN CONNECTION WITH POTENTIAL PRIVATE SALE OF MIDDLETON IDAHO HOMES AND MEMORANDUM IN SUPPORT** was filed with the Court on this 4th day of April, 2014, and served via ECF on all parties who have requested notice in this case.

/s/ Jeffrey M. Armington