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*Attorneys for Court-Appointed Receiver R. Wayne Klein*

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**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH**

**CENTRAL DIVISION**

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R. WAYNE KLEIN as Receiver for National  
Note of Utah, LC *et al.*,

Plaintiff,

v.

JOHN SPINOLA, an individual, and JOHN  
DOES 1-5,

Defendants.

**COMPLAINT TO INVALIDATE  
DEEDS OF TRUST**

(Ancillary to Case No. 2:212-cv-00591)

Civil No. \_\_\_\_\_

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R. Wayne Klein, the Court-Appointed Receiver (the “Receiver” or “Plaintiff”) of National Note of Utah, LC (“National Note”), its subsidiaries and affiliates (collectively, unless otherwise stated, National Note and all subsidiaries and affiliated entities are referred to herein as “NNU”), and the assets of Wayne LaMar Palmer (“Palmer”), in the case styled as *Securities and Exchange Commission v. National Note of Utah, LC et al.*, Case No. 2:12-cv-00591 (D. Utah) (Jenkins, J.) (the “SEC Civil Enforcement Case”), hereby files this Complaint against John

Spinola (“Spinola”) and John Does 1-5 (“Defendant Does” and together with Spinola, “Defendant”). In support hereof, the Receiver states as follows:

**STATEMENT OF THE CASE**

1. NNU was operated as an enterprise with all of the characteristics of a Ponzi scheme through which money was solicited from investors.<sup>1</sup> Upon information and belief, Defendant was an NNU investor who received a lien against certain real property. The Receiver seeks to avoid the real property lien.

**PARTIES**

2. Pursuant to an Order Appointing Receiver and Staying Litigation entered on June 25, 2012 in the SEC Civil Enforcement Case (the “Receivership Order”),<sup>2</sup> Plaintiff is the duly-appointed Receiver for National Note and Palmer “together with any and all subsidiaries and affiliated entities of National Note and Palmer. . . .”<sup>3</sup>

3. Upon information and belief, Defendant Spinola is an individual residing in Reno, Nevada.

4. Upon information and belief, Defendant Does are currently unknown parties who have received monies or property from NNU, or are persons to whom Spinola has transferred monies or property received from NNU.

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<sup>1</sup> See SEC Civil Enforcement Case, Docket No. 1 (Complaint).

<sup>2</sup> SEC Civil Enforcement Case, Docket No. 9.

<sup>3</sup> *Id.* (Receivership Order, pp. 1-2).

**JURISDICTION AND VENUE**

5. Subject matter jurisdiction is proper in this Court pursuant to 28 U.S.C. §1367.
6. The Court has personal jurisdiction over Defendant.
7. Venue is proper in this Court pursuant to 28 U.S.C. § 754.

**FACTS**

**The Ponzi Scheme**

8. Since at least 1994 until the commencement of the SEC Civil Enforcement Case, NNU raised capital by soliciting investors to purchase promissory notes, which typically promised to pay interest at a rate of interest above market rates.

9. Upon information and belief, investors understood that they were investing in an enterprise that, among other things, bought and sold mortgage notes, underwrote and made loans, or bought and sold real estate assets through National Note, or one of many affiliated entities subject to the Receivership Order, all of which are referred to herein collectively as “NNU.”

10. Typically, investment funds were deposited in a commingled bank account controlled by NNU. NNU would then transfer such investor funds to another bank account (the “Investor Account”).

11. Monies on deposit in the Investor Account were commingled, and transfers to investors by NNU were made from the commingled funds on deposit in that Investor Account.

12. At all times relevant hereto, NNU was insolvent.

13. At all times relevant hereto, there have been and are one or more creditors who have held and still hold matured or unmatured unsecured claims against National Note.

**The Deed of Trust Transfer**

14. Defendant was an NNU investor, having ten different investment accounts. A summary of the monies that Defendant paid to NNU and that he received from NNU is attached hereto as **Exhibit A**.

15. Defendant made his last investment with NNU by transferring \$125,000.00 to NNU on or about July 15, 2011.<sup>4</sup>

16. On or about July 15, 2011, NNU executed an unsecured promissory note in favor of Spinola in the amount of \$125,000.00 with a maturity date of August 15, 2011.

17. On or about August 15, 2011, NNU executed a second unsecured promissory note with Spinola in the principal amount of \$125,000.00 with a maturity date of September 15, 2011, stating that it was intended to pay in full, by renewal, all former notes between NNU and Spinola. Spinola made no further cash investment at this time.<sup>5</sup>

18. NNU transferred a total of \$3,750.00 to Defendant from the Investor Account between August 2011 and October 2011 on account of the \$125,000.00 investment.<sup>6</sup>

19. On or about March 1, 2012, NNU executed a third promissory note with Spinola in the principal amount of \$125,000.00 with a maturity date of May 1, 2012, indicating that it paid in full all prior notes between NNU and Spinola by renewal (the "Spinola Note"). Spinola made no further cash investment at this time.<sup>7</sup>

20. Also on or about March 1, 2012, NNU executed a deed of trust (the "Spinola

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<sup>4</sup> See Exh. A.

<sup>5</sup> See Exh. A.

<sup>6</sup> See Exh. A.

<sup>7</sup> See Exh. A.

Deed of Trust”) purporting to secure the Spinola Note with certain real property located in Kanab, Utah known as the “Kanab Cabin” (the “Deed of Trust Transfer”).

21. On or about March 8, 2012, the Spinola Deed of Trust was recorded with the Kane County Recorder’s Office.

22. Upon information and belief, Spinola did not provide National Note with any consideration in exchange for the Spinola Deed of Trust at that the time that the Spinola Deed of Trust was executed and recorded.

### **The SEC Civil Case and the Receiver’s Appointment**

23. On June 25, 2012, the SEC Civil Enforcement Case was filed, alleging that NNU is a Ponzi scheme, and seeking, among other things, orders (a) restraining and enjoining NNU and Palmer from continuing to violate federal securities laws, (b) freezing assets and prohibiting NNU from transferring, changing, wasting, dissipating, converting, concealing, or otherwise disposing of assets, (c) prohibiting NNU from destroying, mutilating, concealing, transferring, altering, or otherwise disposing of NNU’s books and records, (d) imposing civil money penalties against NNU and Palmer, and (e) requiring the disgorgement by NNU and Palmer of all ill-gotten gains received by them pursuant to the scheme.<sup>8</sup>

24. Also on June 25, 2012, as a result of the filing of the SEC Civil Enforcement Action, the Court entered a Temporary Restraining Order and Order to Show Cause against the defendants<sup>9</sup> and the Receivership Order appointing the Receiver.<sup>10</sup> Since that time, both

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<sup>8</sup> SEC Civil Enforcement Case, Docket No. 1 (Complaint).

<sup>9</sup> *Id.*, Docket No. 7.

<sup>10</sup> *Id.*, Docket No. 9.

National Note and Palmer have stipulated to a Preliminary Injunction Order that prohibits National Note and Palmer from committing any further acts in furtherance of the Ponzi scheme and that prohibits National Note and Palmer from withdrawing, transferring, selling, buying, pledging, encumbering, assigning, dissipating, concealing, or otherwise disposing of any of their assets.<sup>11</sup>

25. On or about May 21, 2013, the Court entered an Order authorizing the Receiver to commence legal proceedings for the benefit of and on behalf of the receivership estate.<sup>12</sup>

**FIRST CLAIM FOR RELIEF**

*(Avoidance of the Deed of Trust Transfer Under Utah Code Ann. §§ 25-6-5(1)(a) and 25-6-8)*

26. The Receiver re-alleges and incorporates herein by reference each of the preceding allegations as if set forth completely herein.

27. NNU was engaged in an enterprise with all of the characteristics of a Ponzi scheme.

28. NNU made the Deed of Trust Transfer to Defendant in furtherance of the Ponzi scheme.

29. At all relevant times hereto, NNU had at least one creditor.

30. The Transfers were made and any obligations to Defendant incurred with actual intent to hinder, delay or defraud a creditor of NNU.

31. Pursuant to Utah Code Ann. §§ 25-6-5(1)(a) and 25-6-8, the Receiver may avoid and recover the Deed of Trust Transfer to Defendant.

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<sup>11</sup> *Id.*, Docket Nos. 45 and 46.

<sup>12</sup> *Id.*, Docket No. 315.

**SECOND CLAIM FOR RELIEF**

*(Avoidance of the Deed of Trust Transfer Under Utah Code Ann. §§ 25-6-5(1)(b) and 25-6-8)*

32. The Receiver re-alleges and incorporates herein by reference each of the preceding allegations as if set forth completely herein.

33. NNU was engaged in an enterprise that has all of the characteristics of a Ponzi scheme.

34. NNU made the Deed of Trust Transfer to Defendant in furtherance of the Ponzi scheme.

35. At all relevant times hereto, NNU had at least one creditor.

36. The Deed of Trust Transfer was made or the obligations to Defendant were incurred by NNU without receiving a reasonably equivalent value in exchange for the Deed of Trust Transfer or obligations.

37. At the time the Deed of Trust Transfer was made, NNU (a) was engaged or was about to be engaged in a business or transaction for which the remaining assets of NNU were unreasonably small in relation to the business or transaction; or (b) intended to incur, or believed or reasonably should have believed that it would incur, debts beyond its ability to pay as such debts became due.

38. Pursuant to Utah Code Ann. §§ 25-6-5(1)(b) and 25-6-8, the Receiver may avoid and recover the Deed of Trust Transfer to Defendant.

**THIRD CLAIM FOR RELIEF**

*(Avoidance of the Deed of Trust Transfer Under Utah Code Ann. §§ 25-6-6(1) and 25-6-8)*

39. The Receiver re-alleges and incorporates herein by reference each of the preceding allegations as if set forth completely herein.

40. NNU was engaged in an enterprise that has all of the characteristics of a Ponzi

scheme.

41. NNU made the Deed of Trust Transfer to Defendant in furtherance of the Ponzi scheme

42. NNU had at least one creditor at the time that the Deed of Trust Transfer was made or the obligation to Defendant was incurred.

43. The Deed of Trust Transfer was made or the obligation to Defendant was incurred by NNU without NNU receiving a reasonably equivalent value in exchange for the Deed of Trust Transfer or obligation.

44. NNU was insolvent at the time the Deed of Trust Transfer was made or the obligation was incurred, or became insolvent as a result of the Deed of Trust Transfer or the obligation incurred.

45. Pursuant to Utah Code Ann. §§ 25-6-6(1) and 25-6-8, the Receiver may avoid and recover the Deed of Trust Transfer to Defendant.

**FOURTH CLAIM FOR RELIEF**

*(Avoidance of the Deed of Trust Transfer Under Utah Code Ann. §§ 25-6-6(2) and 25-6-8)*

46. The Receiver realleges and incorporates herein by reference each of the preceding allegations as if set forth completely herein.

47. NNU was engaged in an enterprise that has all of the characteristics of a Ponzi scheme.

48. NNU made the Deed of Trust Transfer to Defendant in furtherance of the Ponzi scheme

49. NNU had at least one creditor at the time that the Deed of Trust Transfer was made or the obligation to Defendant was incurred.



50. To the extent that Spinola is an insider, the Deed of Trust Transfer was made for an antecedent debt, while NNU was insolvent, and upon information and belief, Spinola had reasonable cause to believe that NNU was insolvent.

51. To the extent that Spinolla is an insider, pursuant to Utah Code Ann. §§ 25-6-6(2) and 25-6-8, the Receiver may avoid and recover the Deed of Trust Transfer to Defendant.

**FIFTH CLAIM FOR RELIEF**  
*(Constructive Trust)*

52. The Receiver re-alleges and incorporates herein by reference each of the preceding allegations as if set forth completely herein.

53. The Deed of Trust Transfer to Defendant were comprised of property of NNU and were made by NNU in furtherance of the Ponzi scheme.

54. Allowing Defendant to retain the Deed of Trust Transfer would unjustly enrich Defendant and would be inequitable.

55. The Deed of Trust Transfer can be traced to wrongful behavior.

56. An injustice would result if Defendant was allowed to keep the Deed of Trust Transfer.

57. A constructive trust for the benefit of the receivership estate must be imposed for the benefit of the receivership estate.

**SIXTH CLAIM FOR RELIEF**  
*(Unjust Enrichment)*

58. The Receiver re-alleges and incorporates herein by reference each of the preceding allegations as if set forth completely herein.

59. The Deed of Trust Transfer to the Defendant were comprised of property of NNU and were made by NNU in furtherance of the Ponzi scheme.

60. The Deed of Trust Transfer conferred a benefit upon Defendant.

61. The Defendant knowingly benefitted from the Deed of Trust Transfer.

62. Allowing Defendant to retain the Deed of Trust Transfer and the lien against the Kanab Cabin would unjustly enrich Defendant and would be inequitable.

63. Absent avoidance of the Deed of Trust Transfer, the receivership estate will be damaged by Defendant's unjust enrichment and may have no adequate remedy at law.

64. The Deed of Trust Transfer must be invalidated.

**PRAYER FOR RELIEF**

WHEREFORE, the Receiver respectfully prays for relief as follows:

A. Pursuant to the Receiver's First Claim for Relief, judgment against Defendant avoiding the Deed of Trust Transfer under Utah Code Ann. §§ 25-6-5(a)(1) and 25-6-8.

B. Pursuant to the Receiver's Second Claim for Relief, judgment against Defendant avoiding the Deed of Trust Transfer under Utah Code Ann. §§ 25-6-5(a)(2) and 25-6-8.

C. Pursuant to the Receiver's Third Claim for Relief, judgment against Defendant avoiding the Deed of Trust Transfer under Utah Code Ann. §§ 25-6-6(1) and 25-6-8.

D. Pursuant to the Receiver's Fourth Claim for Relief and to the extent that Spinola is an insider, judgment against Defendant avoiding the Deed of Trust Transfer under Utah Code Ann. §§ 25-6-6(2) and 25-6-8.

E. Pursuant to the Receiver's Fifth Claim for Relief, judgment against Defendant imposing a constructive trust for the benefit of the receivership estate related to the Deed of Trust Transfer.

F. Pursuant to the Receiver's Sixth Claim for Relief, judgment against Defendant for unjust enrichment.

G. Judgment for pre-judgment interest, costs, and fees, including reasonable attorney's fees, as may be allowed by law.

H. For such other and further relief as the Court deems just and proper.

DATED this 24th day of June, 2013.

**DORSEY & WHITNEY LLP**

*/s/ Peggy Hunt*

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Peggy Hunt

Chris Martinez

Jeffrey M. Armington

*Attorneys for Receiver*

# EXHIBIT A

National Note of Utah, LC  
 1549 West 7800 South  
 West Jordan, UT 84088  
 801-566-7337 Julie@nationalnote.com

Investment Pay History

Reference

Spinola JS03-0428-PY NNU  
 Printed 12/21/12 Period of 01/01/90 - 12/31/12

Internal report: Do not mail to this address!

Additional information

Spinola, John  
 795 Manzanita Lane  
 Reno, NV 89509-5378

Spinola #2 # 98

W: 775 828-1790

O: 775 815-3000

Regular pmt:	1875.00	Int rate:	12.000	18.000	Rem pmts:	7/ 7	Orig bal:	50000.00
Escrow pmt:	0.00	Int calc:		Fixed	Per diem:	61.64	Orig date:	04/28/03
Service fee:	0.00	Pmt type:	1099 T	USRule 365 M	Next due:	11/15/11	Maturity:	05/01/12
Total pmt:	1875.00	NSF fee:		0.00	Arrears:	13387.50		
Ord/Day/L.Fee:	1/15 37.50	Reminder:		05/01/12				
Total if late:	1912.50	MATURITY DATE						

Pay Date	Due/Type	Amount	RetCap/Ref	Income	DiscEarn	Basis	Escrow	Payment/Balance Late	Svc
04/28/03		0.00	0.00	0.00	0.00	50000.00	0.00	0.00	0.00
06/01/03	06/01/03 R	558.90	0.00	500.00	0.00	50000.00	0.00	0.00	0.00
			10911	58.90 AI					
06/01/03	P	0.00	0.00	58.90	0.00	50000.00	0.00	0.00	0.00
			10911						
07/01/03	07/01/03 R	500.00	0.00	500.00	0.00	50000.00	0.00	0.00	0.00
			10990						
08/01/03	08/01/03 R	500.00	0.00	500.00	0.00	50000.00	0.00	0.00	0.00
			11086						
09/01/03	09/01/03 R	500.00	0.00	500.00	0.00	50000.00	0.00	0.00	0.00
			11181						
10/01/03	10/01/03 R	500.00	0.00	500.00	0.00	50000.00	0.00	0.00	0.00
			11277						
11/01/03	11/01/03 R	500.00	0.00	500.00	0.00	50000.00	0.00	0.00	0.00
			11375						
12/01/03	12/01/03 R	500.00	0.00	500.00	0.00	50000.00	0.00	0.00	0.00
			11473						
Annual Total:		3558.90	0.00	3558.90	0.00		0.00	0.00	0.00
Escrow Paid Out:							0.00		
01/01/04	01/01/04 R	500.00	0.00	500.00	0.00	50000.00	0.00	0.00	0.00
			11570						
02/01/04	02/01/04 R	500.00	0.00	500.00	0.00	50000.00	0.00	0.00	0.00
			11666						
03/01/04	03/01/04 R	500.00	0.00	500.00	0.00	50000.00	0.00	0.00	0.00
			11772						
04/01/04	04/01/04 R	500.00	0.00	500.00	0.00	50000.00	0.00	0.00	0.00
			11877						
05/01/04	05/01/04 R	500.00	0.00	500.00	0.00	50000.00	0.00	0.00	0.00
			12001						
05/04/04	P	-100000.00	-100000.00	0.00	0.00	150000.00	0.00	0.00	0.00
			ADD2PRIN	49.32 AI					
06/01/04	06/01/04 R	1430.14	0.00	500.00	0.00	150000.00	0.00	0.00	0.00
			12106	930.14 AI					
06/01/04	P	0.00	0.00	930.14	0.00	150000.00	0.00	0.00	0.00
			12106						

National Note of Utah, LC  
 1549 West 7800 South  
 West Jordan, UT 84088  
 801-566-7337 Julie@nationalnote.com

## Investment Pay History

Reference

Spinola JS03-0428-PY NNU Page 2  
 Printed 12/21/12 Period of 01/01/90 - 12/31/12

Pay Date	Due/Type	Amount	RetCap/Ref	Income	DiscEarn	Basis	Escrow	Payment/Late	Balance	Svc
06/01/04	P	150000.00	150000.00 2840	0.00	0.00	0.00	0.00	0.00	0.00	0.00
07/01/04	07/01/04 R	0.00	0.00 BRINGCUR	0.00	0.00	0.00	0.00	0.00	0.00	0.00
08/01/04	08/01/04 R	0.00	0.00 BRINGCUR	0.00	0.00	0.00	0.00	0.00	0.00	0.00
09/01/04	09/01/04 R	0.00	0.00 BRINGCUR	0.00	0.00	0.00	0.00	0.00	0.00	0.00
10/01/04	10/01/04 R	0.00	0.00 BRINGCUR	0.00	0.00	0.00	0.00	0.00	0.00	0.00
11/01/04	11/01/04 R	0.00	0.00 BRINGCUR	0.00	0.00	0.00	0.00	0.00	0.00	0.00
11/19/04	P	-465000.00	-465000.00 ADD2PRIN	0.00	0.00	465000.00	0.00	0.00	0.00	0.00
11/19/04	12/01/04 R	0.00	0.00 BRINGCUR	0.00	0.00	465000.00	0.00	0.00	0.00	0.00
12/01/04	P	285000.00	283165.48 WIRETRAN	1834.52 AI 1834.52	0.00	181834.52	0.00	0.00	0.00	0.00
Annual Total:		438930.14	-131834.52	5764.66	0.00		0.00	0.00	0.00	0.00
Escrow Paid Out:							0.00			
01/01/05	01/01/05 R	1818.35	0.00 13142	1818.35	0.00	181834.52	0.00	0.00	0.00	0.00
02/01/05	02/01/05 R	1818.35	0.00 13310	1818.35	0.00	181834.52	0.00	0.00	0.00	0.00
03/01/05	03/01/05 R	1818.35	0.00 13490	1818.35	0.00	181834.52	0.00	0.00	0.00	0.00
03/15/05	P	175000.00	174163.06 WIRE	836.94	0.00	7671.46	0.00	0.00	0.00	0.00
04/01/05	04/01/05 R	42.88	0.00 13689	42.88	0.00	7671.46	0.00	0.00	0.00	0.00
05/01/05	05/01/05 R	76.71	0.00 13896	76.71	0.00	7671.46	0.00	0.00	0.00	0.00
06/01/05	06/01/05 R	76.71	0.00 14116	76.71	0.00	7671.46	0.00	0.00	0.00	0.00
07/01/05	07/01/05 R	76.71	0.00 15358	76.71	0.00	7671.46	0.00	0.00	0.00	0.00
08/01/05	08/01/05 R	76.71	0.00 14615	76.71	0.00	7671.46	0.00	0.00	0.00	0.00
09/01/05	09/01/05 R	76.71	0.00 14878	76.71	0.00	7671.46	0.00	0.00	0.00	0.00
10/01/05	10/01/05 R	76.71	0.00 15156	76.71	0.00	7671.46	0.00	0.00	0.00	0.00
11/01/05	11/01/05 R	76.71	0.00 15444	76.71	0.00	7671.46	0.00	0.00	0.00	0.00
12/01/05	12/01/05 R	76.71	0.00 15747	76.71	0.00	7671.46	0.00	0.00	0.00	0.00
Annual Total:		181111.61	174163.06	6948.55	0.00		0.00	0.00	0.00	0.00
Escrow Paid Out:							0.00			

National Note of Utah, LC  
 1549 West 7800 South  
 West Jordan, UT 84088  
 801-566-7337 Julie@nationalnote.com

Investment Pay History

Reference

Spinola JS03-0428-PY NNU Page 3  
 Printed 12/21/12 Period of 01/01/90 - 12/31/12

Pay Date	Due/Type	Amount	RetCap/Ref	Income	DiscEarn	Basis	Escrow	Payment/Balance Late	Svc
01/01/06	01/01/06 R	76.71	0.00 16061	76.71	0.00	7671.46	0.00	0.00	0.00
02/01/06	02/01/06 R	76.71	0.00 16387	76.71	0.00	7671.46	0.00	0.00	0.00
03/01/06	03/01/06 R	76.71	0.00 16723	76.71	0.00	7671.46	0.00	0.00	0.00
04/01/06	04/01/06 R	76.71	0.00 17077	76.71	0.00	7671.46	0.00	0.00	0.00
05/01/06	05/01/06 R	76.71	0.00 17449	76.71	0.00	7671.46	0.00	0.00	0.00
06/01/06	06/01/06 R	76.71	0.00 17832	76.71	0.00	7671.46	0.00	0.00	0.00
07/01/06	07/01/06 R	76.71	0.00 18221	76.71	0.00	7671.46	0.00	0.00	0.00
08/01/06	08/01/06 R	76.71	0.00 18620	76.71	0.00	7671.46	0.00	0.00	0.00
09/01/06	09/01/06 R	76.71	0.00 19031	76.71	0.00	7671.46	0.00	0.00	0.00
10/01/06	10/01/06 R	76.71	0.00 19452	76.71	0.00	7671.46	0.00	0.00	0.00
11/01/06	11/01/06 R	76.71	0.00 19880	76.71	0.00	7671.46	0.00	0.00	0.00
12/01/06	12/01/06 R	76.71	0.00 20316	76.71	0.00	7671.46	0.00	0.00	0.00
12/28/06	Y	7739.56	7671.46 WT122806	68.10	0.00	0.00	0.00	0.00	0.00
Annual Total:		8660.08	7671.46	988.62	0.00		0.00	0.00	0.00
Escrow Paid Out:							0.00		
07/15/11	P	-125000.00	-125000.00 WT071511	0.00	0.00	125000.00	0.00	0.00	0.00
08/30/11	08/15/11 R	1875.00	0.00 53087	1875.00 35.96 AI	0.00	125000.00	0.00	0.00	0.00
09/15/11	09/15/11 R	0.00	0.00 BRINGCUR	0.00 1910.96 AI	0.00	125000.00	0.00	0.00	0.00
10/01/11	10/15/11 R	1875.00	0.00 54431	1875.00 1910.96 AI	0.00	125000.00	0.00	0.00	0.00
Annual Total:		3750.00	-125000.00	3750.00	0.00		0.00	0.00	0.00
Escrow Paid Out:							0.00		
Report Total:		636010.73	-75000.00	21010.73	0.00		0.00	0.00	0.00
Escrow Paid Out:							0.00		
Balances:				1910.96		125000.00	0.00	0.00	0.00

Taxable: 21010.73

JS 44 (Rev. 12/12)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**  
 R. Wayne Klein, as Receiver

**(b) County of Residence of First Listed Plaintiff** Salt Lake  
 (EXCEPT IN U.S. PLAINTIFF CASES)

**(c) Attorneys (Firm Name, Address, and Telephone Number)**  
 Peggy Hunt  
 Dorsey & Whitney, LLP  
 136 South Main Street #1000, SLC, UT 84101; 801-933-7360

**DEFENDANTS**  
 JOHN SPINOLA, JOHN DOES 1-5

County of Residence of First Listed Defendant Salt Lake  
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

1 U.S. Government Plaintiff

3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant

4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reappointment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	FEDERAL TAX SUITS	
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

**V. ORIGIN** (Place an "X" in One Box Only)

1 Original Proceeding     2 Removed from State Court     3 Remanded from Appellate Court     4 Reinstated or Reopened     5 Transferred from Another District (specify)     6 Multidistrict Litigation

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 U.S.C. § 754

Brief description of cause:  
Recovery of the value of transfers from Defendant for the benefit of the receivership estate.

**VII. REQUESTED IN COMPLAINT:**     CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.    DEMAND \$ \$125,000    CHECK YES only if demanded in complaint: JURY DEMAND:     Yes     No

**VIII. RELATED CASE(S) IF ANY** (See instructions):    JUDGE Jenkins    DOCKET NUMBER 2:12-cv-00591

DATE 6/24/2013    SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY

RECEIPT #    AMOUNT    APPLYING IFP    JUDGE    MAG. JUDGE