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Attorneys for National Note Investor Committee

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

<p>SECURITIES AND EXCHANGE COMMISSION,</p> <p>Plaintiff,</p> <p>v.</p> <p>NATIONAL NOTE OF UTAH, LC, <i>et al.</i>,</p> <p>Defendants.</p>	<p>MOTION TO INTERVENE</p> <p>Case No. 2:12cv591</p> <p>Judge Bruce S. Jenkins</p>
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The National Note Investor Committee (“Investor Committee”)¹, which is comprised of a number of similarly situated investors, each of whom lost money in the National Note scheme move this Court to allow it to intervene in this matter.

¹ Exhibit A is a list of the members of the Investor Committee and the entities through which they invested, where applicable.

FACTUAL BACKGROUND

1. The Securities and Exchange Commission (“SEC”) filed this enforcement action on June 25, 2012. (Dkt. 1)

2. On June 25, 2012, this Court entered an Order Freezing Assets and Prohibiting Destruction of Documents (Dkt. 8) which froze all assets held in the name of the defendants to this action (“National Note”).

3. The court also entered an Order Appointing Receiver and Staying Litigation (Dkt. 9), which stayed all legal proceedings of any nature, including but not limited to, foreclosure actions pertaining to property held by the National Note companies and created an equity receivership.

4. On April 24, 2013, R. Wayne Klein, as receiver for National Note (“Receiver”) filed a Motion to Approve Agreement between Receiver and Barclay Associates, LLC and Memorandum in Support (Dkt. 278) asking the Court to allow the abandonment of property to a creditor.

5. On June 13, 2013, the Receiver filed a Renewed Motion to Approve Agreement between Receiver and Barclay Associates, LLC and Memorandum in Support (Dkt. 339), making the same request.

6. Several similarly situated investors in National Note have banded together to form a committee to ensure the Receiver’s actions do not infringe on their rights as creditors of the receivership estate.

ARGUMENT

Rule 24(a)(2) of the Federal Rules of Civil Procedure allows parties to intervene as a matter of right “when the applicant claims an interest relating to the property or transaction which is the subject of an action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant’s ability to protect that interest, unless the applicant’s interest is adequately represented by existing parties.” An applicant must be allowed to intervene if (1) the application is timely; (2) the applicant has an interest in the subject matter of the dispute; (3) that interest is or may be impaired or impeded; and (4) the applicant’s interest is not represented adequately by existing parties. *Coalition of AZ/NM Counties for Stable Economic Growth v. DOI*, 100 F.3d 837, 840 (10th Cir. 1996). The Tenth Circuit follows a liberal view in allowing intervention under Rule 24(a). *Elliot Indus. v. BP Am. Prod. Co.*, 407 F.3d 1091, 1103 (10th Cir. 2005).

The Investor Committee meets the requirements to intervene in this action. Under receivership law, principles of equity and fairness demand similarly situated creditors be treated equally. *SEC v. Credit Bancorp, Ltd.*, 290 F.3d 80 (2nd Cir. 2002). In the Receiver’s Motion, he is attempting to abandon an asset of the estate, which asset should inure to the benefit of all creditors of the receivership rather than being transferred for the benefit of one creditor. The creditor at issue in the Motion is similarly situated with other creditors in that he is not a regulated financial institution, but loaned money to National

Note with the expectation of payment of interest. This is also true of National Note's investors. Members of the Investor Committee only recently became aware of the potential abandonment of the property at issue in the Receiver's Motion, but continue to have an interest in the Middleton Property and other assets which have not yet been marshaled by the Receiver. Where the Receiver attempts to favor one creditor over others in the disposition of assets, the Investor Committee's interests are not adequately represented by the Receiver. The risk of prejudice to the Investor Committee in such instances favors intervention as a matter of right.

DATED this 2nd day of July, 2013.

PRINCE, YEATES & GELDZAHLER

/s/ Jared N. Parrish

Sally B. McMinimee

Jared N. Parrish

Attorneys for Investor Committee

CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of July, 2013, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent a Notice of Electronic Filing to all parties whose names appear on the electronic mail notice list for this case.

/s/ LeAnn W. Searcy

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EXHIBIT A
NATIONAL NOTE INVESTOR COMMITTEE
MEMBERS

NAME	INVESTING ENTITY
Joseph Swift Cathy Swift Elaine Swift (dcd) Heather Swift Pearce Hillary Morgan Swift Morris Caroline Swift Stansbury	CJS Investments, LLC Joseph Swift ROTH IRA Swift Family Trust FBO Elaine Swift
Lyle C. Peterson	
Cameron Cripps TJAC, LLC Jordan Cripps	TJAC, LLC
Thomas E. House	
John Spinola Sally Spinola	Entrust Administration FBO John Spinola Acct. #26701 Entrust Administration FBO Sally Spinola Acct. #26702
Helen Patricia Fogg	Helen P. Fogg, trustee of the Survivor's Trust Share of the Fogg Trust dtd March 21, 1985 Helen P. Fogg
Gregory Oliver Jeannine A. Oliver	
Lisa Lannon	Golden Rules LLC
Anne Keenan Brian P. Pascale Zachary Keenan-Soutiere Katherine Ann Keenan-Pascale	
Robert Keith Chambers Nancy L Chambers	Alpine Enterprises
James Sand	FT Holding Trust
Dana Holgate	

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MEMBERS

Robert Schiff Leslye Schiff Elana Schiff	Robert S. & Leslye A. Schiff Trust 2001
Evelyn L. Schwarz	
Richard V. Concilio	Dina Holdings, LLC
Verl A. Jensen	
Rlene L. Hoggan	
Robert Donald Luzitano Therese Ann Luzitano Madeline Bunch	
Michael Spinola	Michael D. Spinola IRA Acct #31595 (Entrust Administration)
Nicholas Tuttle	
Kevin Lynch Teresa Lynch	Equity Trust Co Cstdn FBO Teresa E. Lynch, IRA # 86006 Equity Trust Co. Cstdn FBO Kevin L. Lynch IRA # 48948
Raymond K. Hendrickson Diane O. Hendrickson	Raymond K. Hendrickson IRA Diane O. Hendrickson IRA Eagle Mtn Consulting, Inc Silver Beaver Mgmnt, LLC Blue Diamond Investments Kenneth P. Hendrickson dcd
Tom Edwards	Edwards Trust
Don C. Tardy	The Tardy Company 401k Plan
Sylvia Feeberger Andrew Higgins	Sylvia Feeberger Andrew Higgins
Dorothy K. Schmeling	
Mark Cardone Lisa Cardone	

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NATIONAL NOTE INVESTOR COMMITTEE
MEMBERS

Dave LeFevre Melanie LeFevre	
Edward G. Scott Patricia J. Scott	
John & Dorothy Murphy	
Loid Lemelle	
Peter E. K. Shepherd Lois Shepherd	
Garrett Living Trust/Royce Garrett	
Edmunds Management LLC	
Merilu Dillard Mackeal S. Dillard	Dillard F Trust Dtd 10/
David J. Reyes Marion L. Reyes	
George K. Matsuoka	
Steve Menesini	The 2008 Isabella Mensini Revocable Trust
Dennis R. Welsand	Dennis R. Welsand
Michael Allerdyce	
Dale T. Mericle	
Shwol-Huo Kiang Barbara Kielek-Kiang	Shwol-Huo Kiang Roth IRA #12038
John R. Stoker Stephanie A. Stoker	
Yvonne O. Moore	
John T. Cook	Global Fortuna Group, LLC
Ronald F. Collier Lauren A. Collier	