

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: 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>RECEIVER’S MOTION FOR COURT TO APPOINT APPRAISER FOR THE RIVERBEND PROPERTY AND MEMORANDUM IN SUPPORT</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 For Court to Appoint Appraiser for the Riverbend Property* (the “Motion”). By this Motion, the Receiver asks that the Court appoint Williams Research, Inc. (the “Appraiser”) to appraise seven parcels of land located in Middleton, Idaho (the “Riverbend Property”), which are owned by Riverbend Estates, LC, one of National Note of Utah, LC’s affiliates and an entity of the Receivership Estate. The employees of the Appraiser who will perform the appraisal are certified appraisers in the State of Idaho and disinterested in the sale of the Riverbend Property. Thus, the Appraiser should be

approved as Court-appointed Appraiser of the Riverbend Property.

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

MEMORANDUM IN SUPPORT

I.

STATEMENT OF FACTS

1. On July 3, 2012, to comply with this Court's directive,¹ the Receiver e-mailed a letter (the "Letter") to potential appraisers informing them of the scope of the appraisal needed and informing potential appraisers that "the City of Middleton, in conjunction with the Idaho Department of Transportation, plans a significant roadway through a portion of the land."² A copy of the Letter is attached hereto as **Exhibit B**.

2. The Letter also instructed potential appraisers to take the planned roadway into account when performing their appraisal.³

3. The Appraiser responded to the Letter and informed the Receiver that it would appraise the Riverbend Property for a fee of \$4,000.00 within 3-4 weeks after the Court enters an Order appointing the Appraiser.

4. If appointed, the Appraiser will utilize the services of Timothy P. Williams ("Williams") and Paul R. Rodeghiero ("Rodeghiero"), both of whom are certified general appraisers in the State of Idaho, to perform the appraisal.

5. Williams and Rodeghiero are independent, reputable professionals with no present or prospective interest in the Riverbend Property. Attached hereto as **Exhibit C** is a true

¹ At a July 3, 2013, hearing on the *Renewed Motion to Approve Agreement Between Receiver and Barclay Associates LLC* [Docket No. 339], the Court instructed the Receiver to obtain an appraisal of the Riverbend Property.

² Exh. B (Letter at p. 1.)

³ *Id.*

and correct copy of information pertaining to the qualifications and the Idaho Certified General Appraiser license of Williams. Also, attached hereto as **Exhibit D** is a true and correct copy of information pertaining to the qualifications and the Idaho Certified General Appraiser license of Rodeghiero.

6. As part of their appraisals, each of the Appraiser's employees who perform the appraisals will sign an Appraiser's Certification affirming that he is not biased and is not basing his or her appraisal on a predetermined value. Moreover, each of the Appraiser's employees who perform the appraisal will represent that he or she has no present or prospective interest in the Riverbend Property. Further, if this Motion is granted, the Receiver will notify the Appraiser of its 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. § 2001.⁴ Pursuant to 28 U.S.C. § 2001(b), prior to confirmation of any private sale of real property, this Court shall appoint three disinterested persons to appraise the property.⁵ The Receiver asks that the Court appoint the Appraiser as a Court-appointed appraiser of the Riverbend Property. Williams and Rodeghiero are certified appraisers and are disinterested in the sale of the Riverbend Property. Each employee of the Appraiser who performs the appraisal will sign an Appraiser's Certification affirming that he is not biased and is not basing his appraisal on a predetermined

⁴ Docket No. 9 (Receivership Order) at ¶ 39.

⁵ See 28 U.S.C. § 2001(b).

value.

In sum, the Appraiser, and the employees of the Appraiser who will perform the appraisals are independent and disinterested and should be appointed by the Court pursuant to 28 U.S.C. § 2001(b).

DATED this 17th day of July, 2013.

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 THE RIVERBEND PROPERTY AND MEMORANDUM IN SUPPORT** was filed with the Court on this 17th day of July, 2013, and served via ECF on all parties who have requested notice in this case.

/s/ Jeffrey M. Armington
