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IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

SECURITIES AND EXCHANGE COMMISSION,

PLAINTIFF,

v.

NATIONAL NOTE OF UTAH, LC, a Utah Limited  
Liability Company and WAYNE LaMAR PALMER,  
an individual,

DEFENDANTS.

**STIPULATED MOTION TO  
CONTINUE DATES FOR  
SUBMISSION OF PRETRIAL  
ORDER AND TRIAL**

Civil No.: 2:12-cv-00591-BSJ

Judge: Bruce S. Jenkins

Plaintiff, Securities and Exchange Commission (the "Commission"), by and through its counsel of record, respectfully submits this Motion to Continue the dates set by this Court in its Order dated July 16, 2014 (Dkt No. 705) (the "Order"). As set forth in the Court's Order, Defendant Wayne L. Palmer ("Palmer") was given until July 31, 2014 to make a determination as to a waiver of the attorney client privilege with respect to his former counsel. On August 1, 2014, Palmer filed a Notice of Filing of Waiver Attorney Client Privilege filed by Defendant Wayne L. Palmer (Dkt No. 712). Counsel for the Commission has contacted the counsel for two

of the identified attorneys in the Notice and discussed potential deposition dates with Michael F. Skolnick, who represents Mr. Stoker and Mr. Cannon. Mr. Skolnick informed Commission counsel that he had very limited availability to present his clients for a deposition. See Email dated August 8, 2014. After discussing the issue with Receiver's counsel, Mr. Skolnick, it appears that Mr. Stoker and Mr. Cannon will not be available until September 10 and 11, 2014, after the date that the Pretrial Order is due and on the date that the Pretrial Order is to be heard by the Court. See Email dated August 12, 2014 attached as Exhibit "B".

The issue of advice of counsel has been raised by Palmer as a defense and the Court has noted that it is particularly relevant to the scienter-based charges contained in the Commission's Complaint. Counsel for the Commission believes it is critical for the Commission to be afforded the opportunity to fully explore this issue in discovery. Counsel for the Commission believes he has acted diligently and in good faith to comply with the Court's deadlines in this case, but the late waiver of the attorney client privilege rendered it impossible for the Commission to do discovery on this issue prior to August 1, 2014.

Therefore, the Commission respectfully requests that the Court continue the dates set forth in its Order dated July 16, 2014, to allow the Commission to pursue this discovery. Commission counsel has discussed this issue with Palmer and he has indicated that he does not oppose this request.

Respectfully submitted,

/s/ Thomas M. Melton

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**CERTIFICATE OF SERVICE**

I hereby certify that on August 20, 2014, I caused to be sent the forgoing **STIPULATED MOTION TO CONTINUE DATES FOR SUBMISSION OF PRETRIAL ORDER AND TRIAL** to the following parties entitled to service in this action by the means indicated below:

VIA UPS

R. Wayne Klein  
KLEIN & ASSOCIATES, PLLC  
10 Exchange Place  
Suite 502  
Salt Lake City, UT 84111  
*Court-appointed Receiver;*

Peggy Hunt  
DORSEY & WHITNEY LLP  
136 South Main Street  
Suite 1000  
Salt Lake City, UT 84101  
*Counsel to R. Wayne Klein;*

Wayne LaMar Palmer  
8816 South 2240 West  
West Jordan, Utah 84088

/s/ Kyle Czirr

# **EXHIBIT A**

## Melton, Thomas M.

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**From:** Mike Skolnick <mfskolnick@kippandchristian.com>  
**Sent:** Wednesday, August 06, 2014 5:38 PM  
**To:** Melton, Thomas M.  
**Cc:** Catherine Rice; Nancy Paez; Mike Skolnick; martinez.chris@dorsey.com  
**Subject:** SEC v. National Note of Utah, LC (Civil Action No. 12-591 (D. Utah)) - proposed date for attorney depositions

Hi Tom – This responds to your inquiry about deposing Steve Stoker, Jim Cannon and Jeff Thompson in the above case. I understand based on our conversation that the SEC wishes to depose the listed attorneys regarding Wayne Palmer's advice of counsel defense. I also understand Mr. Palmer has informed the SEC he waives attorney-client privilege with respect to all three attorneys.

First, I do not represent Mr. Thompson, and you will need to approach him separately. As discussed, I have very limited availability through the end of August to defend Steve's and Jim's depositions. Of the two potential dates we discussed, I understand both Jim and Steve can be available the afternoon of 8/20. I am presently available starting at noon on that date.

I understand you have conferred with counsel for the receiver in the related National Note receivership, and they can be available to appear and question Steve and Jim on 8/20. I also understand they have committed they will not seek to re-depose Steve or Jim on topics raised at the SEC's depositions.

Please let me know at your earliest convenience whether the SEC and Receiver would like to confirm the 8/20 date for those two depositions.

Regards,

Mike



MICHAEL F. SKOLNICK  
ATTORNEY AT LAW

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# **EXHIBIT B**

## Melton, Thomas M.

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**From:** Mike Skolnick <mfskolnick@kippandchristian.com>  
**Sent:** Tuesday, August 12, 2014 4:50 PM  
**To:** Melton, Thomas M.  
**Cc:** Mike Skolnick; Nancy Paez  
**Subject:** RE: Stoker and Cannon depositions

Hi Tom – I have confirmed Steve Stoker could be available on 9/10 and Jim Cannon on 9/11. Steve would need to start early on 9/10 (e.g. 8 or 8:30) because he has any early evening commitment he needs to drive to.

Mike



MICHAEL F. SKOLNICK  
ATTORNEY AT LAW

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