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

<p>R. WAYNE KLEIN, as Receiver, Plaintiff, v. DAVID BARTON and LISA G. BARTON, individuals, Defendants.</p>	<p>COMPLAINT (Ancillary to Case No. 2:12-cv-00591) Civil No. 2:15-cv-00189-BSJ Judge Bruce S. Jenkins</p>
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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 David Barton and Lisa G. Barton, and states, alleges and avers as follows:

PARTIES

1. Pursuant to an Order Appointing Receiver and Staying Litigation entered on June 25, 2012 in the SEC Civil Enforcement Case (the “Receivership Order”),¹ Plaintiff is the duly-appointed Receiver for NNU and the assets of Palmer.

2. Upon information and belief, David Barton is a resident of or is domiciled in the State of Utah.

3. Upon information and belief, Lisa G. Barton is a resident of or is domiciled in the State of Utah.

JURISDICTION AND VENUE

4. Subject matter jurisdiction is proper in this Court pursuant to 28 U.S.C. §1367.

5. The Court has personal jurisdiction over Defendants.

6. Venue is proper in this Court pursuant to 28 U.S.C. § 754.

THE SEC CIVIL ENFORCEMENT CASE

7. 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-

¹ SEC Civil Enforcement Case, Docket No. 9.

gotten gains received by them pursuant to the scheme.²

8. 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 Cause³ and the Receivership Order appointing the Receiver.⁴ Since that time, both 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.⁵

9. 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.⁶

David Barton Is Paid in Full by National Note

10. Upon information and belief, David Barton and Lisa G. Barton (collectively, the “Bartons”) loaned \$70,000 to Roger R. Brockbank (“Brockbank”).

11. This loan was evidenced by a Promissory Note issued by Brockbank to the Bartons (the “Note”).

12. Brockbank executed an All-Inclusive Trust Deed, dated August 10, 1995 (the “Trust Deed”) for the benefit of the Bartons to secure Brockbank’s obligation to the Bartons under the Note. A copy of the Trust Deed is attached hereto as Exhibit A.

² *Id.*, Docket No. 1.

³ *Id.*, Docket No. 7.

⁴ *Id.*, Docket No. 9.

⁵ *Id.*, Docket Nos. 45 and 46.

⁶ *Id.*, Docket No. 315.

13. The Trust Deed afforded the Bartons an interest in certain real property located in Uintah County, Utah as more fully described in the Trust Deed (the “Property”), and was recorded in Uintah County at Entry No. 95004587.

14. Subsequently, Land Utah, LC (“Land Utah”) acquired the Property and assumed Brockbank’s obligations under the Note.

15. Land Utah is one of the NNU entities.

16. A total of \$91,176.39 was paid to the Bartons on account of the debt owed under the Note.

17. As of July 2009, the Note was paid in full.

18. As a result, the Trust Deed should have been released in July 2009.

19. As of the date of the Receiver’s appointment, the Trust Deed had not been released.

20. The Trust Deed is an improper recorded interest against the Property.

21. On or about July 30, 2013, the Receiver made his first demand on the Bartons, requesting that they release the Trust Deed, but the Bartons refused to release the Trust Deed.

22. Since that time, the Receiver has made numerous demands on the Bartons requesting that they release the Trust Deed, but they will not do so.

FIRST CLAIM FOR RELIEF
(Declaratory Judgment)

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

24. An actual controversy has arisen between the Receiver and the Bartons regarding the Bartons’ refusal to release the Trust Deed.

25. The Receiver is entitled to a declaratory judgment and order that the Trust Deed is invalid because the Note has been satisfied in full.

26. A judicial declaration is necessary and appropriate at this time under the circumstances in order that the respective rights and duties of the parties may be determined.

SECOND CLAIM FOR RELIEF

(Utah Code Ann. § 57-1-38)

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

28. Utah Code Annotated section 57-1-38 provides that if a secured lender fails to release its security interest on a secured loan within 90 days after receipt of the final payment of the loan, then that secured lender is liable to the owner of the real property for the greater of \$1,000 or treble actual damages incurred because of the failure to release the security interest, and reasonable attorneys' fees and court costs.

29. The Bartons are secured lenders as defined in Utah Code Annotated section 57-1-38.

30. The Note has been paid in full.

31. The Bartons have not released the Trust Deed within 90 days of receiving the final payment on the Note.

32. The Receiver is entitled to an order awarding him the greater of \$1,000 or treble the Receiver's actual damages incurred because of the failure of the Bartons to release the Trust Deed, plus attorneys' fees and costs.

PRAYER FOR RELIEF

WHEREFORE, the Receiver prays for relief as follows:

A. On his First Cause of Action, for a Judgment declaring that (1) the Note has been fully satisfied; and (2) the Trust Deed is no longer valid and is null and void.

B. On his Second Cause of Action, for a Judgment against the Bartons for the greater of \$1,000 or treble the actual damages incurred by the Receiver because of the Bartons' failure to release the Trust Deed, plus reasonable attorneys' fees and court costs.

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

DATED this 24th day of March, 2015.

DORSEY & WHITNEY LLP

/s/ Chris Martinez

Peggy Hunt

Chris Martinez

Attorneys for Receiver