

Peggy Hunt (Utah State Bar No. 6060)  
John J. Wiest (Utah State Bar No. 15767)  
**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](mailto:hunt.peggy@dorsey.com)  
[wiest.john@dorsey.com](mailto:wiest.john@dorsey.com)

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

---

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

---

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

vs.

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

Defendants.

**RECEIVER'S SECOND MOTION  
REQUESTING ALLOWANCE OF  
CERTAIN PROOFS OF CLAIM AND  
MEMORANDUM OF LAW IN  
SUPPORT**

Case No: 2:12-CV-591 BSJ

The Honorable Bruce S. Jenkins

---

**YOU ARE RECEIVING THIS MOTION BECAUSE THE RECEIVER IS SEEKING AN  
ORDER FROM THE COURT APPROVING YOUR PROOF OF CLAIM AS LISTED ON  
EXHIBIT A. YOU ARE NOT REQUIRED TO TAKE ANY ACTION IN  
RESPONSE TO THIS MOTION.**

**PLEASE NOTE THAT ALTHOUGH THE RECEIVER IS REQUESTING THAT YOUR  
CLAIM BE ALLOWED, YOU WILL NOT RECEIVE A DISTRIBUTION IN THIS CASE  
IN THE AMOUNT OF THE ALLOWED CLAIM BECAUSE THE RECEIVER DOES  
NOT HAVE SUFFICIENT FUNDS TO PAY ALL ALLOWED CLAIMS IN FULL.**

**At this time, it is unclear how much will be available to pay Allowed Proofs of Claim in this case, but it is necessary for Proofs of Claim that have been submitted to be allowed or disallowed by the Court so that a plan of distribution may be proposed. Once a plan is approved the Receiver can begin making distributions.**

**If you have any questions about this process, please contact the Receiver at 801-456-4591 or [claims@kleinutah.com](mailto:claims@kleinutah.com).**

---

R. Wayne Klein, as receiver (the “Receiver”) for Defendant National Note of Utah, LC and the assets of Defendant Wayne LaMar Palmer, by and through his counsel of record, hereby files *Receiver’s Second Motion Requesting Allowance of Certain Proofs of Claim and Memorandum of Law in Support* (the “Motion”). For the reasons stated, the Receiver respectfully requests that the Court grant this Motion and allow the four Proofs of Claim listed on Exhibit A (the “Relevant Claims”) in the amount asserted in each of those Proofs of Claim. *The Receiver initially recommended that each of the Relevant Claims be disallowed. However, as a result of the Court’s ruling rejecting the Receiver’s recommendation to disallow similar Proofs of Claim at a hearing on May 18, 2016, the Receiver has withdrawn that initial recommendation. Based on the Court’s ruling, the Receiver is now requesting that the Relevant Claims be allowed in the amounts asserted in each of the Proofs of Claim submitted to the Receiver listed on Exhibit A.* A proposed Order is attached hereto as Exhibit B. In support hereof, the Receiver states as follows.

**I.**

**BACKGROUND**

**The Civil Enforcement Action and the Receivership Estate**

1. On June 25, 2012, the above-captioned case was commenced by the Securities

and Exchange Commission against Defendants National Note of Utah, LC (“NNU”) and Wayne LaMar Palmer (“Palmer”), and in conjunction therewith the Court entered, in relevant part, an *Order Appointing Receiver and Staying Litigation* (the “Receivership Order”).<sup>1</sup>

2. Pursuant to the Receivership Order, the Receiver was appointed and a Receivership Estate was created. NNU and forty-one of its affiliated companies (collectively with NNU, “National Note”) and all of Palmer’s known assets were placed in the Receiver’s control.<sup>2</sup> Among other things, through the Receivership Order, the Court directed and authorized the Receiver to assume control of, preserve, and manage all assets of the Receivership Estate,<sup>3</sup> investigate and prosecute claims,<sup>4</sup> and “to develop a plan for the fair, reasonable, and efficient recovery and liquidation of all remaining . . . Receivership Property . . . .”<sup>5</sup>

*Claim Procedures Order and Compliance*

3. On September 1, 2015, the Court entered an *Order Granting Receiver’s Amended Motion Seeking Approval of Proposed Claim Procedures and Accompanying Forms and Setting Bar Date* (the “Claim Procedure Order”),<sup>6</sup> approving the following documents proposed by the Receiver to implement the filing and consideration of claims in this case: (a) a “Bar Date Notice”; (b) “Proof of Claim Form and Instructions” (the “Proof of Claim”); and (c) a

---

<sup>1</sup> Docket No. 9 (Receivership Order).

<sup>2</sup> See generally, *id.*

<sup>3</sup> *Id.* at ¶ 7.

<sup>4</sup> *Id.* at ¶¶ at 7, 42-45.

<sup>5</sup> *Id.* at ¶ 52; see *id.* at ¶ 7.

<sup>6</sup> Docket No. 999.

“Publication Notice” to inform investors of the ability to file and the deadline to file Proof of Claim Forms. The Court also approved the method of service of the Bar Date Notice and Proof of Claim, as well as the method of publication notice. Finally, the Court set the bar date for filing Proofs of Claim in this case as November 3, 2015 (the “Bar Date”).

4. On November 10, 2015, the Receiver filed *Receiver’s Certificate of Service of Bar Date Notice and Claim-Related Forms*,<sup>7</sup> which is incorporated herein by reference, certifying that he served the November 3, 2015 Bar Date Notice and Proof of Claim in accordance with the procedures approved in the Claim Procedure Order, and that he provided notice of the November 3, 2015 Bar Date by publication notice in accordance with the procedures approved in the Claim Procedure Order.

5. On March 4, 2016, the Receiver filed *Receiver’s Supplemental Certificate of Service of Bar Date Notice and Claim-Related Forms*,<sup>8</sup> which is incorporated by reference, certifying that he served the November 3, 2015 Bar Date Notice and Proof of Claim in accordance with the procedures approved in the Claim Procedure Order on persons identified since the filing of the initial Certificate of Service.

*The Claims Disallowance Motion*

6. As of December 22, 2015, the Receiver had completed his initial review of all Proofs of Claim that he received and he notified each claimant of his initial claim recommendation. As part of this process, the Receiver notified each claimant of the Receiver’s recommendation as to the treatment of its claim and the basis for that recommendation. The

---

<sup>7</sup> Docket No. 1032.

<sup>8</sup> Docket No. 1087.

Receiver notified the holders of each of the Relevant Claims that he was recommending that their respective Proofs of Claim be entirely disallowed. The *Receiver's Initial Claims Report* (the "Claims Report")<sup>9</sup> that was filed with the Court also reported that the Relevant Claims were Proofs of Claim that the Receiver was recommending for disallowance.<sup>10</sup>

7. In conjunction with that recommendation, the Receiver filed a *Motion Requesting Disallowance of Proofs of Claim and Memorandum of Law in Support* (the "Claims Disallowance Motion"),<sup>11</sup> seeking disallowance of, among others, the Relevant Claims.<sup>12</sup>

8. The holders of the Relevant Claims did not object to the Claims Disallowance Motion.

*Withdrawal of the Claims Disallowance Motion as to Relevant Claims*

9. On May 18, 2016, the Court conducted a hearing on the Claims Disallowance Motion.

10. At that hearing, the Court addressed objections to that Motion filed by claimants holding claims similarly situated to those held by the holders of the Relevant Claims. The Court sustained the objections made.

11. Accordingly, the reasons for disallowing the Relevant Claims as recommended by the Receiver in the Claims Disallowance Motion have been rejected by the Court.

12. The Court subsequently entered its *Order Granting in Part and Denying in Part*

---

<sup>9</sup> Docket No. 1088.

<sup>10</sup> Claims Report, Exhibit A-4.

<sup>11</sup> Docket No. 1092.

<sup>12</sup> *Id.*, Exhibit A.

*Receiver's Motion Requesting Disallowance of Non-Objecting Claimants' Proofs of Claim* (the "Claims Order").<sup>13</sup> As part of the Claims Order, the Court denied without prejudice the Receiver's Claims Disallowance Motion as to each of the Relevant Claims.<sup>14</sup>

## II.

### THE PRESENT MOTION TO ALLOW

13. After the Court's ruling on the Claims Disallowance Motion, the Receiver revisited his review of the Relevant Claims and has determined that, based on the Court's ruling related to similarly situated claimants, the Relevant Claims should be allowed as asserted.

14. Thus, the Receiver now requests that the Relevant Claims listed on Exhibit A hereto be allowed in their entirety.

## III.

### MEMORANDUM IN SUPPORT

15. The "district court has broad powers and wide discretion to determine relief in an equity receivership."<sup>15</sup>

16. Here, the Receiver is requesting that the Court allow the Relevant Claims as asserted.

17. The Receiver submits that the procedure proposed herein is fair and equitable, and

---

<sup>13</sup> Docket No. 1142.

<sup>14</sup> *Id.* (Claims Order, ¶ 1 & Exhs. 1 - 2).

<sup>15</sup> *SEC v. Vescor Capital Corp.*, 599 E.3d 1189, 1194 (10<sup>th</sup> Cir. 2010), *quoted in Klein v. Penedo*, Order and Judgment, No. 14-4077 at 6 (10<sup>th</sup> Cir. Oct. 27, 2015). *See also Bendell v. Lancer Mang. Group, LLC*, 523 Fed. Appx. 554 (11<sup>th</sup> Cir. 2013); *SEC v. Safety Fin. Serv., Inc. v. Ark. Loan & Thrift Corp.*, 674 F.2d 368, 373 (5<sup>th</sup> Cir. 1982).

that the basis for recommending allowance of the Relevant Claims is appropriate given the applicable law and the facts.

**IV.**

**CONCLUSION**

WHEREFORE, the Receiver respectfully requests that the Court grant this Motion and allow the Relevant Claims in the amounts stated in Exhibit A. A proposed form of Order is attached hereto as Exhibit B.

DATED this 10th day of June, 2016.

**DORSEY & WHITNEY LLP**

*/s/ Peggy Hunt* \_\_\_\_\_

Peggy Hunt

John J. Wiest

*Attorneys for Court-Appointed Receiver*





# EXHIBIT A

**Receiver's Revised Claim Recommendations**

<b>Claim No.</b>	<b>Total Claim Asserted</b>	<b>Recommended Amount</b>
1182	\$ 7,538.00	\$ 7,538.00
1242	\$ 46,217.82	\$ 46,217.82
1266	\$ 20,000.00	\$ 20,000.00
1374	\$ 952,000.00	\$ 952,000.00
<b>Total</b>	<b>\$ 1,025,755.82</b>	<b>\$ 1,025,755.82</b>

# EXHIBIT B

*Prepared and Submitted By:*

Peggy Hunt (Utah State Bar No. 6060)  
John J. Wiest (Utah State Bar No. 15767)  
**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](mailto:hunt.peggy@dorsey.com)  
[wiest.john@dorsey.com](mailto:wiest.john@dorsey.com)

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

---

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

---

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

vs.

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

Defendants.

**ORDER GRANTING RECEIVER'S  
MOTION SEEKING ALLOWANCE  
OF RECOMMENDED ALLOWED  
CLAIMS**

Case No: 2:12-CV-591 BSJ

The Honorable Bruce S. Jenkins

---

The matter before the Court is the *Receiver's Second Motion Requesting Allowance of Allowance of Certain Proofs of Claim and Memorandum of Law in Support* (the "Motion"). The Court has reviewed the Motion, including Exhibit A attached thereto, and the record in this case. Based thereon and for good cause shown,

**IT IS HEREBY ORDERED that:**

(1) The Motion is **GRANTED**;

- (2) Each of the Proofs of Claim listed on Exhibit 1 hereto is **ALLOWED** in the amount stated in Exhibit 1.

DATED this \_\_\_\_ day of June, 2016.

**FOR THE COURT**

---

The Honorable Bruce S. Jenkins  
Judge, United States District Court

# EXHIBIT 1

**Receiver's Revised Claim Recommendations**

Claim No.	Total Claim Asserted	Recommended Amount
1182	\$ 7,538.00	\$ 7,538.00
1242	\$ 46,217.82	\$ 46,217.82
1266	\$ 20,000.00	\$ 20,000.00
1374	\$ 952,000.00	\$ 952,000.00
<b>Total</b>	<b>\$ 1,025,755.82</b>	<b>\$ 1,025,755.82</b>