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

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

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| <p>SECURITIES AND EXCHANGE<br/>COMMISSION,</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>NATIONAL NOTE OF UTAH, LC, a Utah<br/>Limited Liability Company and WAYNE<br/>LaMAR PALMER, and individual,</p> <p style="text-align: right;">Defendants.</p> | <p><b>FIRST FEE APPLICATION FOR LONE<br/>PEAK VALUATION GROUP FOR<br/>SERVICES RENDERED FROM<br/>FEBRUARY 26, 2014 THROUGH<br/>MARCH 15, 2015</b></p> <p>2:12-cv-00591 BSJ</p> <p>The Honorable Bruce S. Jenkins</p> |
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In accordance with the Order Granting Receiver's Motion Seeking Authorization of the Employment of Lone Peak Valuation Group as Insolvency Expert, (the "Employment Order"),<sup>1</sup> Lone Peak Valuation Group, the Insolvency Expert ("Lone Peak") hereby submits this first "Fee Application," seeking approval by the Court of fees and expenses incurred by the Lone Peak for

<sup>1</sup> Docket No. 660.

the period of February 26, 2014 through March 15, 2015 (the "Application Period"),<sup>2</sup> and authorization to pay all authorized fees and expenses from unencumbered funds of the Receivership Estate. Lone Peak is seeking approval of fees in the total amount of \$72,886.08.

This Fee Application was provided to the United States Securities and Exchange Commission ("SEC") for review, comment and objection prior to filing. The SEC provided comments to Lone Peak and Lone Peak understands that there is no objection by the Commission to relief sought herein.

In support hereof, Lone Peak states as follows.

#### I. BACKGROUND

1. On June 25, 2012, this case was commenced by the SEC against Defendants Palmer and National Note in this Court. The SEC alleges, among other things, that Defendants Palmer and National Note engaged in securities fraud and operated a scheme that took over \$100 million from more than 600 investors.

2. The SEC filed several *ex parte* motions on June 25, 2012, all of which were granted by the Court. In particular, the Court entered the Receivership Order, appointing the Receiver and authorizing the Receiver to employ professionals to assist him with his duties.<sup>3</sup>

3. In June, 2014, the Court entered an *Order Authorizing Receiver to Employ Lone Peak Valuation Group as Insolvency Expert*, and the Receiver employed Lone Peak for the

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<sup>2</sup> Because the Lone Peak Insolvency Report has been completed, no further fees and expenses are anticipated for Lone Peak in connection with creation of the Report. Further fees and expenses would be expected only if a clawback defendant were to depose Lone Peak in anticipation of trial or if the Receiver had Lone Peak testify at a trial.

<sup>3</sup> Receivership Order ¶ 58.

limited purpose of serving as an expert witness on insolvency issues in ancillary proceedings filed by the Receiver.<sup>4</sup> Lone Peak has not entered into an any agreement, written or oral, express or implied, with any person or entity concerning the amount of compensation paid or to be paid from the Receivership Estate, or any sharing thereof.

4. During the present Application Period, Lone Peak has provided actual and necessary services for the benefit of the Receivership Estate which are set forth in greater detail below and in the attached Exhibits. Lone Peak respectfully submits that the fees and expenses requested in the Fee Application are reasonable and should be approved.

5. As noted above, Lone Peak submitted the Fee Application to the SEC for review, comment and objection prior to filing. The SEC provided comments to Lone Peak, and the SEC has informed the Lone Peak that it has no objection to the fees and expenses as requested herein.

## **II. SERVICES PERFORMED**

6. During the Application Period, Lone Peak provided services to the Receiver in conjunction with its appointment as expert witness including:

A. Analysis of Insolvency: Including creating, editing, and reviewing the financial model used by the Receiver in his financial analysis; verifying calculations; and creating associated documents and spreadsheets.

B. Expert Report: Including reviewing files and documents produced; reviewing and verifying calculations; and creating, editing, and reviewing the expert

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<sup>4</sup> Docket No. 660. At the time the Court approved the engagement of Lone Peak, the Receiver represented to the Court that Lone Peak's services were estimated to be less than \$100,000.00. The Receiver notes that the fees and expenses billed by Lone Peak are almost 30% below that upper estimate.

report.

C. Limited Settlement: Including preparing for and attending a limited number of settlement meetings.

### III. BANK ACCOUNTS OF THE RECEIVERSHIP ESTATE

7. The Receivership Estate currently has two bank accounts, designated as an "Operating Account" and a "Real Estate Account". The Operating Account holds funds that are free and clear of any interests, and as of September 3, 2015, this Account had a balance in the total amount of \$4,671,836.60. The Real Estate Account holds the net sale proceeds that have been obtained from the liquidation of real property against which liens or ABIs have been recorded and not yet released or found invalid, and as of September 3, 2015, this Account had a balance in the total amount of \$1,038,297.92.

8. If the Court approves this Fee Application, the Receiver would pay the approved fees and expenses from the Operating Account. Given the amount requested, the Operating Account has sufficient funds to pay these fees and expenses.

### IV. REQUEST FOR COURT APPROVAL OF FEES AND EXPENSES

9. The Receivership Order provides, in relevant part, that:

59. The Receiver and Retained Personnel are entitled to reasonable compensation and expense reimbursement from the Receivership Estates as described in the "Billing Instructions for Receivers in Civil Actions Commenced by the U.S. Securities and Exchange Commission" (the "Billing Instructions") agreed to by the Receiver. Such compensation shall require the prior approval of the Court.

60. Within forty-five (45) days after the end of each calendar quarter, the Receiver and Retained Personnel shall apply to the Court for compensation and expense reimbursement from the Receivership Estate (the "Quarterly Fee Applications"). At least

thirty (30) days prior to filing each Quarterly Fee Application with the Court, the Receiver will serve upon counsel for the Commission a complete copy of the proposed Application, together with all exhibits and relevant billing information in a format to be provided by Commission staff.

61. All Quarterly Fee Applications will be interim and will be subject to cost benefit and final reviews at the close of the receivership. . . .

62. Quarterly Fee Applications may be subject to a holdback in the amount of 20% of the amount of fees and expenses for each application filed with the Court. . . .<sup>5</sup>

10. Lone Peak respectfully requests that the Court enter an Order approving and authorizing payment from the Receivership Estate of the reasonable compensation and expenses outlined herein for the Application Period of February 26, 2014 through March 15, 2015 in the amount of \$72,886.08.

11. This Fee Application is supported by Exhibit A which contains detailed invoices described in the work performed by Lone Peak on a daily basis.

12. In compliance with ¶ 60 of the Receivership Order, the Fee Application, including the invoices in Exhibit A, was provided to the SEC and after review and comment, the SEC has no objection to the fees and expenses requested.

#### V. CONCLUSION

13. Lone Peak respectfully submits this Fee Application and requests that the Court enter an Order approving the actual and necessary fees and expenses incurred on behalf of and for the benefit of the Receivership Estate.

14. There are sufficient funds in the Operating Account to pay the fees and expenses

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<sup>5</sup> Receivership Order ¶¶ 59-62.

requested herein.<sup>6</sup>

15. Thus, Lone Peak respectfully requests that the Court enter an Order approving this Fee Application, allowing the fees and expenses requested herein, and authorizing the Receiver's payment of the same. Lone Peak is seeking approval of fees and expenses in the total amount of \$72,886.08.

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

DATED this 3<sup>rd</sup> day of Sept. 2015.



Richard S. Hoffman  
Principal, Lone Peak Valuation Group

**DORSEY & WHITNEY LLP**

/s/Peggy Hunt

Peggy Hunt  
Chris Martinez  
*Attorneys for the Receiver*

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<sup>6</sup> See *supra* Part III.

**CERTIFICATE OF SERVICE**

I hereby certify that the above **FIRST FEE APPLICATION FOR LONE PEAK VALUATION GROUP FOR SERVICES RENDERED FROM FEBRUARY 26, 2014 THROUGH MARCH 15, 2015** was filed with the Court on this 10th day of September, 2015, and served via ECF on all parties who have requested notice in this case.

/s/ Candy Long

**CERTIFICATE OF SERVICE – MAIL, OTHER**

I hereby certify that on the 10<sup>th</sup> day of September, 2015, I caused to be served by regular first class United States Mail, postage fully paid, a true and correct copy of the **FIRST FEE APPLICATION FOR LONE PEAK VALUATION GROUP FOR SERVICES RENDERED FROM FEBRUARY 26, 2014 THROUGH MARCH 15, 2015** (without attached exhibits) to the following:

Wayne Palmer  
8816 South 2240 West  
West Jordan, Utah 84088

/s/ Candy Long