

Peggy Hunt (Utah State Bar No. 6060)
Sarah Goldberg (Utah State Bar No. 13222)
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
goldberg.sarah@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: center;">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: center;">Defendants.</p>	<p>RECEIVER’S RESPONSE TO MOTION TO INTERVENE 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 (“Palmer”), by and through his counsel of record, hereby files this *Response to the Motion to Intervene and Memorandum in Support* (the “Motion to Intervene”) filed by movants Shwol-Hou Kiang and Barbara Kielek-Kiang (the “Movants”).

FACTUAL BACKGROUND

1. On June 25, 2012, the Securities and Exchange Commission commenced the above-captioned case against Defendants National Note of Utah, LC and Palmer, and in

conjunction therewith, the Court entered, in relevant part, an Order Approving Receiver and Staying Litigation (the “Receivership Order”).¹

2. 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”),² 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 “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”).³

3. On November 10, 2015, the Receiver filed the *Receiver’s Certificate of Service of Bar Date Notice and Claim-Related Forms*,⁴ certifying that he served the November 3, 2015 Bar Date Notice and Proof of Claim Form in accordance with the procedures approved in the Claims 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 Claims Procedure Order. The Receiver certified that he served the November 3, 2015 Bar Date Notice and Proof of Claim Form on the

¹ [Docket No. 9](#) (Receivership Order).

² [Docket No. 999](#).

³ *Id.*

⁴ [Docket No. 1032](#).

Movants by email.⁵

4. Movants did not file a claim before the Bar Date.

5. On March 4, 2016, the Receiver filed the *Receiver's Initial Claims Report* (the "Claims Report"),⁶ reporting to the Court on the Proofs of Claim that had been submitted to him in this case.

6. On June 10, 2016, counsel for Movants contacted counsel for the Receiver inquiring as to whether the Receiver would accept the Movants' late-filed claim or if they should seek leave from the Court to do so.⁷

7. Counsel for the Receiver responded to the Movants stating that, because the Bar Date had passed and because the Receiver had submitted the Claims Report to the Court, he did not have the authority to allow a late-filed claim and that the Movants would have to file a motion seeking court approval for their late-filed claim. A copy of the email correspondence is attached hereto as Exhibit A. Counsel for the Receiver also stated that the Receiver would need additional information from the Movants to determine whether he would oppose such a motion.⁸

8. The Receiver has never received the information he requested from the Movants.

9. On August 24, 2016, the Receiver filed his *Motion for Approval of (1) Proposed Distribution Methodology and Plan of Distribution, and (2) Proposed Initial Distribution, and*

⁵ [Docket No. 1032 at Ex. 1.](#)

⁶ [Docket No. 1088.](#)

⁷ Exhibit A.

⁸ *See id.*

Memorandum in Support (the “Plan Approval Motion”).⁹ The deadline to file an objection to the Plan Approval Motion is September 20, 2016.¹⁰

10. Also on August 24, 2016, but after the Receiver filed the Plan Approval Motion, Movants filed the Motion to Intervene.¹¹ Attached as Exhibit C to the Motion to Intervene is a proposed *Motion to Approve Late-Filed Claim Forms and Memorandum in Support* (the “Motion to Approve Late-Filed Claim”).

RESPONSE

The Receiver does not oppose the Motion to Intervene.

The Receiver does not, however, consent to the relief sought in the Movants’ proposed Motion to Approve Late-Filed Claim. If the Court grants the Motion to Intervene, the Receiver will respond to the Motion to Approve Late-Filed Claim once it is officially filed with the Court.

DATED this 7th day of September, 2016.

DORSEY & WHITNEY LLP

/s/ Peggy Hunt

Peggy Hunt

Sarah Goldberg

Attorneys for Receiver

⁹ [Docket No. 1196](#).

¹⁰ *Id.* at 1.

¹¹ [Docket No. 1197](#).

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the above **RECEIVER'S RESPONSE TO MOTION TO INTERVENE AND MEMORANDUM IN SUPPORT** was filed with the Court on this 7th day of September, 2016, and served via ECF on all parties who have requested notice in this case.

/s/ Leslie DeBry