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

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

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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 MOTION SEEKING  
APPROVAL OF (A) PUBLIC SALE  
OF PROPERTY FREE AND CLEAR  
OF INTERESTS, (B) METHOD AND  
FORM OF PUBLICATION NOTICE,  
(C) AUCTION AGREEMENT, AND  
(D) RELATED RELIEF AND  
MEMORANDUM IN SUPPORT  
(ELKHORN RIDGE ESTATES)**

Civil No. 2:12-00591

The Honorable Bruce S. Jenkins

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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, by and through his counsel of record and pursuant to 28 U.S.C. §§ 2001(a) and 2002 and the *Order Appointing Receiver and Staying Litigation* entered by this court in this case, hereby files this motion (the “Motion”) and respectfully requests that the Court authorize him to sell at public auction certain real property of the Receivership Estate, described more fully and defined in the Memorandum in Support as the “Property.”

This Motion is supported by the Declaration of Receiver R. Wayne Klein (the “Receiver Declaration”), which has been filed concurrently herewith. A proposed “Order” is submitted herewith and attached hereto as **Exhibit 1**.

### **MEMORANDUM IN SUPPORT**

#### **I. FACTUAL BACKGROUND**

1. On June 25, 2012, the above-captioned case was commenced by the Securities and Exchange Commission (the “SEC”) against Defendants National Note of Utah, LC (“NNU”) and Palmer (collectively, the “Receivership Defendants”), and in conjunction therewith the Court entered, in relevant part, an Order Appointing Receiver and Staying Litigation (the “Receivership Order”).<sup>1</sup> Pursuant to the Receivership Order, the Receiver was appointed, and NNU, forty-one of its affiliated companies (the “Palmer Entities”) (collectively for purposes of this Amended Motion, “NNU”), and all Palmer’s assets were placed in the Receiver’s control.<sup>2</sup>

2. The Court has directed and authorized the Receiver to, among other things, do the following:

- “[D]etermine the nature, location and value of all property interests of the Receivership Defendants and the Palmer Entities . . . [.]”<sup>3</sup>
- “To take custody, control and possession of all Receivership Property and records . . . [.]”<sup>4</sup>
- “To use Receivership Property for the benefit of the Receivership Estates and hold in his possession, custody and control all Receivership Property, pending further Order of this Court[.]”<sup>5</sup>

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

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

<sup>3</sup> *Id.* at ¶ 7(A).

<sup>4</sup> *Id.* at ¶ 7(B).

<sup>5</sup> *Id.* at ¶ 7(D).

- “[T]o take immediate possession of all real property of the Receivership Defendants and the Palmer Entities . . . .”<sup>6</sup>
- “[T]ransfer, compromise, or otherwise dispose of any Receivership Property, other than real estate, in the ordinary course of business, on the terms and in the manner the Receiver deems most beneficial to the Receivership Estate, and with due regard to the realization of the true and proper value of such Receivership Property.”<sup>7</sup>
- “[L]ocate, list for sale or lease, engage a broker for sale or lease, cause the sale or lease, and take all necessary and reasonable actions to cause the sale or lease of all real property in the Receivership Estates, either at public or private sale, on terms and in the manner the Receiver deems most beneficial to the Receivership Estate, and with due regard to the realization of the true and proper value of such real property.”<sup>8</sup>
- “[S]ell, and transfer clear title to, all real property in the Receivership Estates” upon order of the Court “pursuant to procedures as may be required by this Court and additional authority such as 28 U.S.C. §§ 2001 and 2004.”<sup>9</sup>

## **II. REAL PROPERTY TO BE SOLD AT AUCTION**

### **A. Elkhorn Ridge Estates**

3. In the six and a half years since his appointment, the Receiver has identified and, with Court approval, sold numerous real properties of the Receivership Estate. At this time, the only real properties of the Receivership Estate left to be sold are 37 lots and related common property in the Elkhorn Ridge Estates subdivision near Malad, Oneida County, Idaho.<sup>10</sup>

4. Elkhorn Ridge Estates consists of 48 lots total. One lot was sold before the Receiver’s appointment, and of the 47 lots which came into the Receivership Estate, the Receiver has sold 10—five lots in 2013, three lots in 2017, and two lots in 2018 (collectively, the

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<sup>6</sup> *Id.* at ¶ 19.

<sup>7</sup> *Id.* at ¶ 37.

<sup>8</sup> *Id.* at ¶ 38.

<sup>9</sup> *Id.* at ¶ 39.

<sup>10</sup> Receiver Declaration ¶ 5.

“Previously Sold Properties”). The following table shows the relevant information regarding the sales of the Previously Sold Properties<sup>11</sup>:

<b>Elkhorn Ridge Estates, Malad ID</b>						
<b>Receivership properties sold as of January 2019</b>						
<b>Lot Number</b>	<b>Tax Parcel ID Number</b>	<b>Acreage</b>	<b>Listing Price</b>	<b>Sale Price</b>	<b>Order Approving Sale</b>	<b>Sale Closed Date</b>
1	RB0281907	2.5 acres	\$135,000.00	\$155,000.00	Docket No. 419	8/29/2013
2	RB0281908	2.5 acres	\$35,000.00	\$31,500.00	Docket No. 492	12/6/2013
3	RB0281909	2.5 acres	\$35,000.00	\$22,000.00	Docket No. 1261	1/31/2017
4	RB0281910	2.5 acres	\$35,000.00	\$35,000.00	Docket No. 231	4/26/2013
5	RB0281911	2.5 acres	\$80,000.00	\$80,000.00	Docket No. 231	4/8/2013
6	RB0281912	2.5 acres	\$35,000.00	\$22,000.00	Docket No. 1295	6/9/2017
7	RB0281913	2.5 acres	\$35,000.00	\$22,000.00	Docket No. 1295	6/9/2017
22	RB0281928	2.5 acres		\$22,000.00	Docket No. 1364	4/2/2018
25	RB0281931	3.8 acres		\$25,200.00	Docket No. 1341	1/29/2018
48	RB0281954	2.5 acres	\$80,000.00	\$80,000.00	Docket No. 231	4/9/2013

5. Through this Motion, the Receiver proposes to sell at public auction the remainder of the Receivership Estate’s interests in Elkhorn Ridge Estates: 37 lots, the common roads, and the common open area. The following table shows the relevant information for each of the properties relevant to this Motion (collectively, the “Property”)<sup>12</sup>:

<sup>11</sup> *Id.* at ¶ 6.

<sup>12</sup> *Id.* at ¶ 7.

<b>Elkhorn Ridge Estates, Malad ID</b>			
<b>Remaining receivership properties proposed to be sold at auction</b>			
<b>Lot Number</b>	<b>Tax Parcel ID Number</b>	<b>Acreage</b>	<b>Bair Appraised Value</b>
9	RP0281915	2.5 acres	\$23,000.00
10	RP0281916	2.5 acres	\$23,000.00
11	RP0281917	2.5 acres	\$23,000.00
12	RP0281918	2.5 acres	\$23,000.00
13	RP0281919	5 acres	\$45,500.00
14	RP0281920	5 acres	\$45,500.00
15	RP0281921	2.5 acres	\$23,000.00
16	RP0281922	2.5 acres	\$23,000.00
17	RP0281923	2.5 acres	\$23,000.00
18	RP0281924	2.5 acres	\$23,000.00
19	RP0281925	2.5 acres	\$23,000.00
20	RP0281926	2.5 acres	\$23,000.00
21	RP0281927	2.5 acres	\$23,000.00
23	RP0281929	2.7 acres	\$25,000.00
24	RP0281930	2.5 acres	\$23,000.00
26	RP0281932	3.8 acres	\$35,000.00
27	RP0281933	2.5 acres	\$23,000.00
28	RP0281934	2.5 acres	\$23,000.00
29	RP0281935	2.8 acres	\$25,500.00
30	RP0281936	2.6 acres	\$24,000.00
31	RP0281937	2.8 acres	\$25,500.00
32	RP0281938	2.5 acres	\$23,000.00
33	RP0281939	2.5 acres	\$23,000.00
34	RP0281940	2.5 acres	\$23,000.00
35	RP0281941	2.5 acres	\$23,000.00
36	RP0281942	2.5 acres	\$23,000.00
37	RP0281943	2.5 acres	\$23,000.00
38	RP0281944	3.8 acres	\$35,000.00
39	RP0281945	3.8 acres	\$35,000.00
40	RP0281946	2.5 acres	\$23,000.00
41	RP0281947	2.5 acres	\$23,000.00
42	RP0281948	2.5 acres	\$23,000.00
43	RP0281949	2.5 acres	\$23,000.00
44	RP0281950	2.4 acres	\$22,000.00
45	RP0281951	2.5 acres	\$23,000.00
46	RP0281952	2.5 acres	\$23,000.00
47	RP0281953	2.5 acres	\$23,000.00

Roads, Open areas	RP0281906		
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**B. Past Efforts to Sell the Property**

6. The Receiver has marketed all Elkhorn Ridge Estates lots for sale since October 2012 through Idaho Real Estate Group (the “Realtor”) pursuant to a “Listing Agreement,” a copy of which is attached to the Receiver Declaration as Exhibit A.<sup>13</sup>

7. To determine an offering price for the Elkhorn Ridge Estates lots, the Receiver obtained the opinion of his Realtor and appraiser Angela Bair (“Bair”), who was appointed by the Court as an appraiser for Elkhorn Ridge Estates on December 4, 2013.<sup>14</sup>

8. In Bair’s appraisal, a true and correct copy of which is attached to the Receiver Declaration as Exhibit B, she gave an estimated value of \$9,100 per acre for all of the Elkhorn Ridge Estates lots. This value is shown for each individual lot of the Property in the table in ¶ 5.<sup>15</sup>

9. The Realtor’s best efforts in marketing the Elkhorn Ridge Estates have resulted in the sales of the Previously Sold Parcels as shown above in ¶ 4—an average of 1.66 sales per year since the Receiver’s appointment. Given this slow rate of sale, and the fact that the Receiver has now disposed of all other properties of the Receivership Estate, the Receiver feels that it is in the best interest of the Receivership Estate to sell the Property at public auction.<sup>16</sup>

**C. The Auction Agreement and Marketing Plan**

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<sup>13</sup> *Id.* at ¶ 8.

<sup>14</sup> Docket No. 550; Receiver Declaration ¶ 9.

<sup>15</sup> Receiver Declaration at ¶ 10.

<sup>16</sup> *Id.* at ¶ 11.

10. The Receiver has entered into an agreement (the “Auction Agreement”) with Braunco Inc. (“Braun”) to sell the Property at public auction (the “Auction”). A true and correct copy of the Auction Agreement is attached hereto as Exhibit 2, and a summary of the material terms of the Auction Agreement is provided below in ¶ 45.<sup>17</sup>

11. The Receiver and Braun negotiated the Auction Agreement in good faith and at arms’ length.<sup>18</sup>

12. Braun has developed an aggressive plan to market the Property and bring interested parties to the Auction. This marketing strategy is described in the “Marketing Plan” which the Receiver received from Braun, a true and correct copy of which is attached to the Receiver Declaration as Exhibit C.<sup>19</sup>

13. As described in the Marketing Plan, Braun will invest \$15,000 in marketing through the following channels:

- a) Email: Braun will send targeted emails about the Auction to high net worth individuals, as well as to its database of nearly 150,000 buyers and brokers in throughout the United States.
- b) Telemarketing: Braun will notify over 2,000 potential buyers, real estate agents, and high-net worth individuals about the Auction via telephone.
- c) Behavioral Targeting: Braun will use behavioral targeting, a digital marketing medium that identifies potential buyers through their online behavior, to find potential buyers and notify them about the Auction.

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<sup>17</sup> *Id.* at ¶ 12

<sup>18</sup> *Id.* at ¶ 13.

<sup>19</sup> *Id.* at ¶ 14.

- d) Internet Marketing and Search Engine Optimization: Braun will ensure that relevant searches on Google, Bing, and Yahoo will show information about the Property and Auction.
- e) Mobile Advertising: Potential purchasers will be able to find information about the Property and Auction through Braun's smartphone app.
- f) Internet Listing Sites: Braun will list the Property on the Multiple Listing Service, CoStar, Realtor.com, Zillow, Trulia, and all the top real estate search engines, as well as on Loopnet, the largest commercial listing website in the United States, with premium listing status.
- g) Social Media Marketing: Braun will market the Property on the top social media channels.
- h) Direct Mail: Braun will send targeted postcards and brochures via postal mail to high net worth individuals.<sup>20</sup>

14. Braun believes that marketing the Property as a whole will bring the highest and best value for the Property and that allowing the Receiver to continue selling the various lot individually before the Auction would dissuade potential bidders from participating in the Auction for the Property as a whole. Accordingly, if the Court approves the Auction Agreement, Braun will have exclusive rights to sell Property, and the Receiver will not be able to accept offers for the individual lots thereafter.<sup>21</sup>

15. Given Braun's experience in marketing hard-to-sell properties like the Property, and its extensive list of contacts who are interest in purchasing such properties, the Receiver

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<sup>20</sup> *Id.* at Exhibit C (Marketing Plan).

<sup>21</sup> *Id.* at ¶ 15.



believes that adhering to the terms of the Auction Agreement and the Marketing Plan will result in the most favorable possible sale of the Property.<sup>22</sup>

**D. Sale Costs and Net Sale Proceeds**

16. The Receiver anticipates paying at the time of the closing of the sale of the Property outstanding property taxes and the ordinary costs of sale, including market-rate closing costs and commissions to Braun and the Realtor.<sup>23</sup>

17. Under the Auction Agreement, at the closing of the sale Braun will receive a commission of 10% of the purchase price; if the Successful Bidder employs an agent, that agent will receive a commission of 3% of the purchase price and Braun's commission will be 7% of the purchase price. If the sale of the Property to the Successful Bidder does not ultimately close, Braun will receive 25% of the Purchase Deposit in lieu of the commission it would have received if the sale had closed. In any event, Braun will also be reimbursed for the \$15,000 it invests in marketing the Property under the Marketing Plan.<sup>24</sup>

18. Under the Listing Agreement, at the closing of the sale the Realtor will receive a commission of 7% of the purchase price, equal to that which Braun will receive in the event that the Successful bidder employs an agent.<sup>25</sup>

19. The gross sale proceeds, less the costs of sale, taxes, reimbursement of marketing costs, and commission are referred to herein as the "Net Sale Proceeds."<sup>26</sup>

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<sup>22</sup> *Id.* at ¶ 16.

<sup>23</sup> *Id.* at ¶ 17.

<sup>24</sup> *Id.* at ¶ 18.

<sup>25</sup> *Id.* at ¶ 19.

<sup>26</sup> *Id.* at ¶ 20.

20. Any other financial interests against the Property (to the extent they exist and without any waiver of the Receiver's or the Receivership Estate's rights and defenses related thereto) will survive the sale and will attach to the Net Sale Proceeds.<sup>27</sup>

21. The Receiver will separately account to the Court for the Net Sale Proceeds pending resolution of any disputes related to interests that may exist against the Property.<sup>28</sup>

**E. Free and Clear Sale**

22. The Receiver proposes to sell the Property free and clear of all interests therein, with any interests that may exist attaching to the Net Sale Proceeds. In so doing, the Receiver is not in any way waiving any rights, claims, interests or defenses to any claims or interests made against the Property or the Net Sale Proceeds.<sup>29</sup>

23. To determine interests, if any, against the Property, the Receiver obtained tax summaries for the Property from Oneida County (the "Tax Summaries"). A copy of the Tax Summaries is attached to the Receiver Declaration as Exhibit D.<sup>30</sup>

24. From the Tax Summaries, the Receiver determined that property taxes on the Property for the year 2018 are liens that are due and payable.<sup>31</sup>

25. Any other financial interests against the Property, other than property taxes and closing costs, will not be paid at the time of closing of the sale. Rather, any such interests (to the

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<sup>27</sup> *Id.* at ¶ 21.

<sup>28</sup> *Id.* at ¶ 22.

<sup>29</sup> *Id.* at ¶ 23.

<sup>30</sup> *Id.* at ¶ 24.

<sup>31</sup> *Id.* at ¶ 25.

extent they exist and without any waiver of the Receiver's or the Receivership Estate's right and defenses related thereto) will survive the sale and will attach to the Net Sale Proceeds.<sup>32</sup>

26. A copy of this Motion is being served on the relevant taxing authority.<sup>33</sup>

**F. Best Interests**

27. The Receiver believes that the sale of the Property at the Auction is beneficial for and in the best interests of the Receivership Estate.<sup>34</sup>

28. Braun's expertise in marketing and selling specialized real estate like the Property combined with its extensive stable of clients who buy these types of properties should lead to a lively Auction which will bring the best and highest price for the Property.<sup>35</sup>

29. Braun will advertise the Auction according to the Marketing Plan, and the Receiver will publish notice of the Auction on his website and in newspapers published and distributed in Salt Lake City, Utah, and Malad, Oneida County, Idaho.<sup>36</sup>

30. Selling the Property at Auction will dispose of the last remaining property of the Receivership Estate in a timely manner. All of the Elkhorn Ridge Estates lots have been vigorously marketed for sale for over six years, but only 10 lots have sold in that period of time—an average of 1.66 sales per year. At this rate of sale, it could take over 22 years for the remaining 37 lots to sell individually.<sup>37</sup>

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<sup>32</sup> *Id.* at ¶ 26.

<sup>33</sup> *Id.* at ¶ 27.

<sup>34</sup> *Id.* at ¶ 28.

<sup>35</sup> *Id.* at ¶ 29.

<sup>36</sup> *Id.* at ¶ 30.

<sup>37</sup> *Id.* at ¶ 31

31. The Receiver has sold all other properties of the Receivership Estate and almost completed collection of the Receivership Estate's outstanding receivables. Disposing of the Property is the last significant event in the receivership. Given these facts, the Receiver believes that liquidating the Estate's interest in the Property as a whole at this time would be more beneficial to the Estate than holding the receivership open for years to come to sell the Property as individual lots.<sup>38</sup>

32. Upon completion of the sale and after the conclusion of the Auction, the Receiver will file with the Court a "Notice of Sale Results," stating the purchase price that was obtained at the Auction and reporting on the Net Sale Proceeds of the sale. This Notice of Sale Results will be served on those parties asserting interests in the Property, if any.<sup>39</sup>

33. The SEC has informed the Receiver that it supports this proposed auction.<sup>40</sup>

### III. APPLICABLE LAW

34. The Receivership Order, as set forth above, anticipates the relief sought by the Receiver herein and is within the scope of his duties under that Order.<sup>41</sup>

35. Section 2001(a) of title 28 of the United States Code permits the Receiver to sell property of the Receivership Estate:

at public sale in the district wherein such receiver was first appointed, at the courthouse of the county, parish, or city situated therein in which the greater part of the property in such district is located, or on the premises or some parcel thereof located in such county, parish, or city, as such court directs. Such sale shall be upon such terms and conditions as the Court directs.<sup>42</sup>

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<sup>38</sup> *Id.* at ¶ 32.

<sup>39</sup> *Id.* at ¶ 33.

<sup>40</sup> *Id.* at ¶ 34.

<sup>41</sup> *See supra* ¶¶ 1, 3.

<sup>42</sup> 28 U.S.C. § 2001(a).

36. Section 2002 of title 28 of the United States Code requires that notice of such public sale be published, in relevant part:

once a week for at least four weeks prior to the sale in at least one newspaper regularly issued and of general circulation in the county, state, or judicial district of the United States wherein the realty is situated.<sup>43</sup>

#### **IV. REQUESTED RELIEF**

37. The Receiver requests that the Court enter the proposed Order attached hereto as **Exhibit 1**, thus (a) authorizing the sale of the Property free and clear of interests; (b) approving the form and method of publication notice as proposed herein; (c) approving the Auction Agreement attached hereto as **Exhibit 2**; and (d) authorizing the Realtor and its principals to bid at the Auction.

##### **A. Sale Free and Clear of Interests**

38. Sale of the Property as proposed is within the scope of the Receiver's authority under the Receivership Order and 28 U.S.C. §§ 2001(a) and 2002, it is in the best interests of the Receivership Estate, and the sale serves the purposes of the Receivership Estate by providing a "realization of the true and proper value" of the Property.<sup>44</sup>

39. The Court may order a sale of the Property free and clear of interests, provided that parties claiming interests against the property are given proper notice. Here, such notice will be provided, with any interests that may ultimately be determined to exist attaching to the Net Sale Proceeds.<sup>45</sup>

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<sup>43</sup> 28 U.S.C. § 2002.

<sup>44</sup> Receivership Order ¶ 38; Receiver Declaration ¶ 28.

<sup>45</sup> Receiver Declaration ¶ 26.

40. Upon completion of the sale and after the conclusion of the Auction, the Receiver will file with the Court a “Notice of Sale Results,” stating the purchase price that was obtained at public auction and reporting on the Net Sale Proceeds of the sale. This Notice of Sale Results will be served on those parties asserting interests in the Property, if any.<sup>46</sup>

**B. Proposed Publication Notice**

41. To comply with the requirement of publication notice for public sales set forth in 28 U.S.C. § 2002, the Receiver seeks approval of the method and form of publication notice of the proposed public sale.

42. Accordingly, the Receiver proposes that the following notice be published newspapers in Salt Lake City, Utah, and Malad, Oneida County, Idaho, once a week for a period of four weeks prior to the Auction (the “Publication Notice Time”):

R. Wayne Klein, Receiver for National Note of Utah, LC and its affiliated entities (the “Receiver”) in the civil case styled as Securities and Exchange Comm. v. National Note of Utah, LC et al., Civ. Case No. 2:12-cv-00591 (D. Utah) (“Civil Case”), gives notice of his intent to sell 37 parcels of real property located at the Elkhorn Ridge Estates subdivision in Malad Summit, Oneida County, Idaho, with tax parcel numbers RP0281906, -15-27, -29-30, and -32-53, and related open space (the “Property”), through a public auction conducted by Braunco Inc. (“Braun”) to the highest bidder payable in lawful money of the United States on the \_\_ day of \_\_\_\_\_, 2019 at the hour of \_\_\_\_ at the Property, or as may be continued from time to time by the Receiver and Braun (the “Auction”). The Property will be sold at the Auction free and clear of all interests, “as is” with no representations and warranties. Only “Qualified Bidders” may participate in the Auction. To be a Qualified Bidder, you must comply with Braun’s auction procedures, which may be obtained upon request made to the Receiver’s counsel at: Dorsey & Whitney LLP, attn: John J. Wiest, 111 South Main Street, 21st Floor, Salt Lake City, Utah 84111; wiest.john@dorsey.com.

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<sup>46</sup> *Id.* at ¶ 33.

43. The Receiver maintains that the above proposed method and form of publication notice is in accordance with 28 U.S.C. §§ 2001(a) and 2002 and, therefore, should be approved.

**C. Auction Agreement**

44. The Receiver requests that the Court enter an Order approving the Auction Agreement attached hereto as **Exhibit 2**.

45. In summary, the material terms of the Auction Agreement provide that:

- a) Braun will arrange, promote, and conduct the Auction on a date set by agreement between the Receiver and Braun in the spring of 2019.
- b) Only qualified bidders may participate in the Auction. A person may become a qualified bidder by furnishing a \$20,000 “Registration Deposit” to Braun or in escrow and providing proof of funds to purchase the Property or pre-approval of a loan to the Receiver’s satisfaction.
- c) The Auction will proceed as a sealed bid auction, and shall be deemed successfully completed upon the Receiver’s acceptance of the winning bid.
- d) Braun may confirm a sale at the Auction or prior to the Auction if the minimum bid price of \$200,000.00 is achieved. Only the Receiver has authority to confirm a sale price less than \$200,000.00. If the sale occurs prior to the Auction, the Receiver will seek separate approval for the sale from the Court.
- e) Upon acceptance by the Receiver of the winning bid, the “Successful Bidder” will immediately deposit a non-refundable “Purchase Deposit” totaling 20% of the purchase price in escrow, with credit being given for the already-paid

Registration Deposit. The balance of the purchase price will be deposited in escrow according to terms of the sale.<sup>47</sup>

46. The Receiver submits that the Auction Agreement and proposed auction procedures stated therein are permitted under 28 U.S.C. §§ 2001(a) and 2002 and, therefore, requests that the Court approve the Auction Agreement.

**D. Realtor Participation in the Auction**

47. The Receiver requests that the Court authorize the Realtor and its principals to participate in the Auction regardless of any perceived conflict of interest.

48. The Receiver believes that the Realtor is one of the most knowledgeable real estate professionals in Oneida, and the Receiver would like to encourage the Realtor and its principals to bid at the auction if they so choose in order to generate more interest in the Property and the Auction.<sup>48</sup>

**V. CONCLUSION**

49. Accordingly, for the reasons set forth herein, the Receiver requests that the Court enter the proposed Order attached hereto as **Exhibit 1**, thus (a) authorizing the sale of the Property free and clear of interests; (b) approving the form and method of publication notice as proposed herein; and (c) approving the Auction Agreement attached hereto at **Exhibit 2**, and (d) authorizing the Realtor and its principals to participate in the Auction. The Receiver also requests any other relief appropriate under the circumstances.

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<sup>47</sup> This summary is provided for the convenience of the Court only. In the event of a conflict between the summary of the Auction Agreement provided herein and the terms of the Auction Agreement itself, the Auction Agreement itself controls.

<sup>48</sup> *Id.* at ¶ 35.



DATED this 31st day of January, 2019.

**DORSEY & WHITNEY, LLP**

*/s/ John J. Wiest* \_\_\_\_\_

Peggy Hunt

John J. Wiest

*Attorneys for Receiver*

**CERTIFICATE OF SERVICE**

I hereby certify that on January 31, 2019, a true and correct copy of the foregoing was filed with the Court and served via ECF on all parties who have requested notice in this case.

*/s/ John J. Wiest* \_\_\_\_\_

I hereby certify that on January 31, 2019, a true and correct copy of the foregoing was served upon the persons named below, at the addresses set out below by U.S. mail:

Oneida County Tax Collector  
10 Court Street  
Malad, ID 83252

*/s/ John J. Wiest* \_\_\_\_\_