

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

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UNITED STATES SECURITIES )  
AND EXCHANGE COMMISSION, )  
  
Plaintiff, )  
  
v. )  
  
VEROS PARTNERS, INC, )  
MATTHEW D. HAAB, )  
JEFFERY B. RISINGER, )  
VEROS FARM LOAN HOLDING LLC, )  
TOBIN J. SENEFELD, )  
FARMGROWCAP LLC, )  
PINCAP LLC, and )  
  
Defendants, )  
  
PIN FINANCIAL LLC, )  
  
Relief Defendant. )

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Case No. 1:15-cv-659-JMS-MJD

**RECEIVER’S MOTION FOR**  
**APPROVAL TO EMPLOY BANKRUPTCY COUNSEL**

William E. Wendling, Jr., the Receiver herein, by counsel, respectfully requests that the Court grant him authority to hire bankruptcy counsel to review the issues related to the Cherry Farms LLC private placement and other investments under the control of the Receivership. In support thereof the Receiver states:

1. As set forth by the Receiver in his Fourth and Fifth Interim Reports [[Filing No. 205](#) and [Filing No. 245](#)] there are at least six (6) Private Placements relating to Cherry Farms

LLC that are financially stressed. The principal balance, accrued interest and default interest bring the total owed by Cherry Farms on these loans to approximately \$6,000,000.00.

2. In recent months, the borrowers' financial position has not improved. In fact, it has worsened. The chief issue is that the Cherrys have insufficient cash flow to pay the Veros investors. Of further concern is that the Cherrys were unable to obtain, from either traditional lending institutions or other sources, an operating loan for the 2016 farming operations. The issue of lack of ability of securing operating funds has a significant negative effect on the ability of Cherry Farms to repay the Veros investors.

3. The Receiver previously met with the investors to discuss various options from doing nothing to filing a lawsuit or trying to find a financial workout. For those investors that were unable to attend the meeting with the Receiver, a summary of what was discussed (and in some cases a digital recording of the meeting) was sent to the investors.

4. The Receiver met with Cherry Farms investors again in July 2016 to update them on the status of Cherry Farms. During the course of that meeting several options were discussed and considered. The Receiver informed the investors that he was going to issue subpoenas requesting additional information from the Cherrys. Some information has now been received and a summary of that information was also provided to the investors. Most importantly a return of the Bunge subpoenas revealed that numerous checks had been negotiated over both the Receiver's forged endorsement as well as that of PHI Financial Services during the period of October 2015 through January 2016 totaling hundreds of thousands of dollars.

5. The Receiver has had several discussions with the Cherrys and their counsel and is of the opinion that bankruptcy is a distinct possibility. Although, the Receiver is still trying to find a resolution to these issues, and having an attorney experienced in farm workout matters will

be extremely beneficial to the Receivership and the investors, bankruptcy counsel may be necessary, on short notice, to litigate in bankruptcy court to protect the interests of the Cherry Farms investors. Therefore, it is essential that the Receiver hires qualified counsel as soon as possible.

6. It is clear that the Receiver and the investors need to understand the consequences if the Cherrys file bankruptcy. As the Court is aware, the United States Bankruptcy Code has a separate set of rules and regulations as it applies to farm bankruptcies, which requires an attorney well-versed in such matters. The Receiver believes it is imperative to have available a bankruptcy attorney to help explain the current and future implications if the Cherrys file bankruptcy. Unfortunately, it appears that there are a number of other private placements that may be faced with bankruptcy issues as well. Therefore, the Receiver requests the authority to hire a bankruptcy attorney for not only the Cherry Farms private placements, but for other investments under the Receivership.

7. Accordingly, the Receiver requests the Court's authority to employ David R. Krebs of the law firm of Hester Baker Krebs LLC as bankruptcy counsel for the Receiver in regard to the Cherry Farms LLC private placements and other investments under the control of the Receivership.

8. Mr. Krebs is an experienced bankruptcy lawyer able to appropriately assist the Receiver herein. An Affidavit of David R. Krebs is attached hereto as [Exhibit A](#).

9. The Receiver believes that employing David R. Krebs is in the best interest of the Receivership Estate because he has the experience and resources to efficiently and effectively represent the Receiver in bankruptcy and related matters involving the Receivership Estate and Cherry Farms LLC.

10. Mr. Krebs will provide legal representation in this case at \$325.00 per hour. Any associates or paralegals that Mr. Krebs may ask to assist him will do so at \$275 per hour and \$125 per hour respectively. The Receiver seeks Court approval to pay this amount on a tentative basis pending final approval as set forth in the Agreed Order Appointing Receiver [[Filing No. 34, at ECF pp. 21-22](#)].

11. On August 10, 2016, the Receiver met with Counsel for the United States Securities and Exchange Commission and discussed this motion. Counsel for the United States Securities and Exchange Commission informed the Receiver they do not object and, in fact, strongly urge the Receiver to take this action to hire bankruptcy counsel.

**WHEREFORE**, the Receiver, by counsel, respectfully requests that this Court enter an order authorizing him to employ David R. Krebs of the law firm of Hester Baker Krebs LLC as bankruptcy counsel for the Receiver in regard to the Cherry Farms LLC private placements and other investments under the control of the Receivership and to compensate Mr. Krebs/ Hester Baker Krebs LLC at the rates set forth in paragraph 10 above.

Respectfully submitted,

By s/Anne Hensley Poindexter .  
Anne Hensley Poindexter, #14051-29  
Altman, Poindexter & Wyatt LLC  
75 Executive Drive, Suite G  
Carmel, IN 46032  
Telephone: (317) 350-1000  
Fax: (844) 840-3461  
Email: [apointexter@apwlawyer.com](mailto:apointexter@apwlawyer.com)

***Counsel for the Receiver***

### Certificate of Service

I hereby certify that on September 13, 2016, a copy of the foregoing ***Receiver's Motion Approval to Employ Bankruptcy Counsel*** was filed electronically. Notice of this filing will be made on all ECF-registered counsel by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

*s/Anne Hensley Poindexter* .  
Anne Hensley Poindexter, #14051-29  
Altman, Poindexter & Wyatt LLC  
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Carmel, IN 46032  
Telephone: (317) 350-1000  
Fax: (844) 840-3461  
Email: [apoin Dexter@apwlawyer.com](mailto:apoin Dexter@apwlawyer.com)

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UNITED STATES SECURITIES  
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JEFFERY B. RISINGER,  
VEROS FARM LOAN HOLDING LLC,  
TOBIN J. SENEFELD,  
FARMGROWCAP LLC,  
PINCAP LLC, and

Defendants,

PIN FINANCIAL LLC,

Relief Defendant.

**AFFIDAVIT OF DAVID R. KREBS AND HESTER BAKER KREBS LLC TO BE  
EMPLOYED AS BANKRUPTCY COUNSEL FOR RECEIVER**

David R. Krebs, being duly sworn upon her oath, deposes and says:

1. I am an adult, have personal knowledge of each of the facts set forth herein and am competent to testify at any trial or hearing concerning this Affidavit.
2. I am a partner with the law firm of Hester Baker Krebs LLC.
3. I have reviewed the complaint filed in this cause by the United States Securities and Exchange Commission and in light of this proposed engagement as special bankruptcy counsel to the Trustee, make the following disclosures and statements:

- a. Our firm has never represented any of the entities or individual Defendants named in this Receivership action in any capacity.
- b. Neither I, nor any partner or associate of my firm, insofar as I have been able to ascertain, represents any interest adverse to that of the Receivership Estates.

FURTHER YOUR AFFIANT SAITH NAUGHT

Respectfully submitted,

Hester Baker Krebs LLC

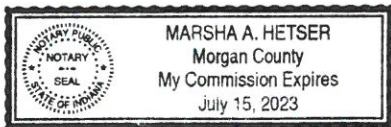
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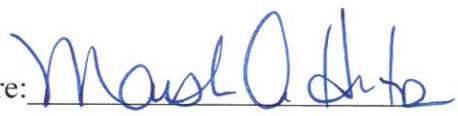
STATE OF INDIANA        )  
                                   ) SS:  
 COUNTY OF MARION     )

**ACKNOWLEDGEMENT**

Before me, a Notary Public in and for said County and State, personally appeared David R. Krebs who acknowledged the execution of the foregoing document and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 13<sup>th</sup> day of September, 2016.



Signature: 

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

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**ORDER AUTHORIZING RECEIVER TO EMPLOY BANKRUPTCY COUNSEL**

**WHEREAS** this matter has come before this Court upon the motion of William E. Wendling, Jr. (“Receiver”), by counsel, to hire David R. Krebs of the law firm of Hester Baker Krebs LLC as bankruptcy counsel for the Receiver in regard to the Cherry Farms LLC private placements and other investments under the control of the Receivership;

**WHEREAS** the Court finds that employment of bankruptcy counsel for the Receiver is reasonable to assist and advise the Receiver in regard to the Cherry Farms LLC private placements and other investments under the control of the Receivership; and

**WHEREAS** David R. Krebs of the law firm of Hester Baker Krebs LLC has the knowledge and experience to appropriately assist the Receiver herein.



**IT IS THEREFORE ORDERED THAT:**

The Receiver is authorized to retain David R. Krebs of the law firm of Hester Baker Krebs LLC as bankruptcy counsel for the Receiver in regard to the Cherry Farms LLC private placements and other investments under the control of the Receivership. The Court specifically approves the fees for said counsel at \$325.00 per hour for Mr. Krebs, \$275 per hour for associates, and \$125 per hour for paralegals, and finds that the same is fair and reasonable and in the best interests of the Receivership entities.

Dated: \_\_\_\_\_

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Honorable Jane Magnus-Stinson, Judge  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA

Distribution:

All ECF-registered counsel of record via email generated by the court's ECF system