

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

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.)

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

**RECEIVER’S MOTION FOR AUTHORITY TO TRANSFER
PRIVATE PLACEMENT, VEROS JEFF AND AMY CHERRY
SINGLE RESIDENTIAL MORTGAGE LOAN TO INVESTOR MEMBERS**

William E. Wendling, Jr., the Receiver herein, by counsel, respectfully seeks the Court’s authority to transfer one of the Private Placements of the Receivership, the Veros Jeff and Amy Cherry Single Residential Mortgage Loan to its Investor Members (hereinafter “Investment Members”). In support of this motion, the Receiver States:

1. On April 22, 2015, the Plaintiff, Unites States Securities and Exchange Commission (“SEC”) filed its Complaint [[Filing No. 1](#)] in this action and a motion for temporary restraining order, asset freeze and other relief [Filing No. 3]. Thereafter, the Court entered a

Temporary Restraining Order [[Filing No. 12](#)].

2. On May 1, 2015, the Agreed Order Appointing Receiver (“Agreed Order”) was entered [[Filing No. 34](#)], appointing William E. Wendling, Jr. to serve without bond as the Receiver for the estates of the Receivership Defendants.

3. The Agreed Order at Paragraph 38, provides that the Receiver “may, without further Order of this Court, transfer, compromise, or otherwise dispose of any Receivership Property, other than real estate, in the ordinary course of business, on terms 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.” [[Filing No. 34, at ECF p. 15](#)]

4. The Agreed Order further provides in Paragraph 44 that “[s]ubject to his obligation to expend receivership funds in a reasonable and cost-effective manner, the Receiver is authorized, empowered and directed to investigate the manner in which the financial and business affairs of the Receivership Defendants were conducted...” [[Filing No. 34, at ECF p. 17](#)]

5. Further, the Receiver is charged with the responsibility to:

To take any action which, prior to the entry of this Order, could have been taken by the officers, directors, partners, managers, trustees and agents of the Receivership Defendants;

To take such action as necessary and appropriate for the preservation of Receivership Property or to prevent the dissipation or concealment of Receivership Property;

To take such other action as may be approved by this Court.

Agreed Order Appointing Receiver [[Filing No. 34, at ECF p. 5](#)]

6. The Investment Members in the Veros Jeff and Amy Cherry Single Residential Mortgage Loan approached the Receiver requesting that this Private Placement be released from the Receivership and transfer it to the Investment Members.

7. The Investment Members intend to obtain independent counsel and independent accountants to review and advise them as to their investments and their role in this proposed transaction regarding the legal and tax ramifications. A spokesman for the Investment Members indicated the Investment Members are relying upon the advice of their independent agents in making this proposal.

8. Pursuant to the terms of the Agreed Order Appointing Receiver as set forth herein above, the Receiver instructed Blue & Co. to perform an analysis of each Private Placement to determine the status of each and whether there were any concerns regarding that Private Placement. The Receiver and Blue & Co. complied with the Court's direction. Blue & Co. has completed its analysis of the Veros Jeff and Amy Cherry Single Residential Mortgage Loan. Attached hereto and incorporated herein as [Exhibit A](#) is a copy of the correspondence from Blue & Co. indicating that based on the Blue & Co. procedures performed related to the Veros Jeff and Amy Cherry Single Residential Mortgage Loan, no issues of concern were found or identified.

9. Legal counsel for the Investment Members will take the lead in preparing the necessary documents to satisfy the legal requirements of the transfer upon the Court's approval of this Motion.

10. On October 20, 2016, the Receiver sent an email to the Investment Members notifying them that Borrowers are not in compliance with their obligations to make payments to the investors, and no payments have been made by the Borrowers since October 20, 2014. A copy of that email is attached hereto as [Exhibit B](#). The Investment Members recognize that this Private Placement is in default, but have indicated their desire to pursue whatever remedies available to them independently from the Receivership. The Investment Members, through their

spokesman, have indicated they believe they can take action more economically and/or more efficiently on their own.

11. The Receiver certifies that there are no funds in the Receiver's Cherry Farms bank account, that there have never been any funds in said account, and no payments have been made in that Private Placement since the Receiver took it over upon his appointment.

12. Accordingly, the Receiver believes that transferring the Private Placement assets to the Investment Members is appropriate and therefore requests the Court's authority to execute all legal forms necessary, including a Release, to accomplish the transfer.

13. Counsel for the United States Securities and Exchange Commission has reviewed this motion and has no objection to the same.

WHEREFORE, the Receiver, by counsel, requests that this Court enter an order approving the transfer of the Private Placement assets to the Investor Members and authorizing the Receiver to execute all documents necessary to facilitate the transfer of this Private Placement, and for all other proper relief.

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: apoindexter@apwlawyer.com

Counsel for the Receiver

Certificate of Service

I hereby certify that on October 26, 2016, a copy of the foregoing ***Receiver's Motion for Authority to Transfer Veros Jeff and Amy Cherry Single Residential Mortgage Loan to Investor Members*** 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
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CPAs / ADVISORS

EXHIBIT A



Blue & Co., LLC / 12800 N. Meridian Street, Suite 400 / Carmel, IN 46032
main 317.848.8920 fax 317.573.2458 email blue@blueandco.com

October 25, 2016

Mr. William E. Wendling, Jr.
Cohen Garelick & Glazier, P.C.
8888 Keystone Crossing Blvd.
Suite 800
Indianapolis, Indiana 46240

Re: Veros Partners, Inc. Receivership (Case No. 1:15-cv-659-JMS-MJD): Jeff & Amy Cherry Private Mortgage

Dear Mr. Wendling:

As set forth in the August 5, 2015 engagement letter between Blue & Co., LLC (“Blue”) and your former firm, Campbell Kyle Proffitt, LLP, and now subsequently Cohen Garelick & Glazier, P.C. (“Counsel” or “Receiver”), and as authorized by the United States District Court Southern District of Indiana Indianapolis Division (the “Court”), we have provided certain consulting and analysis in connection with the Veros Partners, Inc. and certain related entities/investments (“Veros”) matter referenced above as requested by the Receiver related to certain Veros private placements. The focus of this correspondence is related the Jeff & Amy Cherry Private Mortgage (“Cherry Farms Residential Mortgage” or “Private Placement”). The procedures performed in connection with this Private Placement did not constitute a formal review, or full-scale forensic investigation, and were limited to the following agreed upon procedures:

1. Obtaining an understanding of the Private Placement by analyzing certain documentation provided to Blue, by Counsel and Receiver;
2. Determining the amount raised by the Private Placement;
3. Identifying the corresponding investors of the Private Placement;
4. To the extent available, analyze the Private Placement monthly bank statements to identify any potential irregularities;
5. Performing any necessary bookkeeping services on behalf of the Private Placement, as performed by Aliign, LLC (“Aliign”), a related entity of Blue; and
6. To the extent identified by Blue or Aliign, note any extraordinary transactions (i.e., deposits, transfers, withdrawals, etc.) or irregularities that may necessitate additional procedures or further investigation, as part of the analysis performed with respect to the Private Placement.

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Jeff & Amy Cherry Private Mortgage - \$280,800

Investment Overview:

- Overview of Private Placement:

Jeff Cherry is a 32% owner in Cherry Farms, LLC, along with his father Mr. Jim Cherry, who owns the remaining 68%. In May 2011, Jeff and his wife, Amy, were pre-approved for the purchase of a residential property located at 5797 E. 100 South, Greenfield, Indiana for \$312,000. The property is unique in that it is located on the primary tillable acreage owned by the Farm. After receiving the full application package including Cherry Farms' 2010 filed tax return, their application was denied due a taxable net loss shown by the farm. Cherry Farms had a taxable loss in 2010 due to non-cash tax deductions (depreciation), higher than normal operating expenses as some 2009 expenses were paid and deducted in 2010 and higher than normal interest expense.

In 2005 to 2007, Cherry Farms bought a significant amount of new equipment and used debt to fund those purchases. In 2008, Cherry Farms relationship with its primary lender deteriorated and their primary land loan came up for renewal. The bank wanted Cherry Farms to make significant principal payments on their land loan to lower its debt to equity ratio, however the farm was not in a position to make those payments at that time. To increase their equity position, the bank requested and was granted permission to attach liens to Cherry Farms future crops and to their farm machinery and equipment. The bank applied a portion of the 2008 harvest proceeds to their land loan and elected to not renew Cherry Farms' operating line of credit after 2008. Cherry Farm attempted to secure other conventional financing options unsuccessfully. In 2009 Veros Partners began working with Cherry Farms to help them secure an operating line of credit and manage their cash flow.

Jeff and Amy are requesting a private mortgage for \$280,800, secured by the residential parcel at 5797 E. 100 South, Greenfield, Indiana. This amount represents 90% of the property's purchase price of \$312,000.

- Date of Private Placement Memorandum – June 2011
- Timing and Time Horizon: The loan will be interest-only for two years and then will be fully repaid by June 22, 2013.
- Proceeds Raised - \$280,800
- Expected Return - 10% net annual return after payment of management fee.
- Advisory/Management Fee: 2.0% of loan amount payable as distributions are made to the lending group. Management fee stated to cover all services rendered to the lending group including, but not limited to, managing and overseeing this investment, reviewing monthly financial packages, regular communication with the investor group and preparation of all required tax documents.
- Investors Noted:

- Redacted
-
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-
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October 25, 2016

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- Individual bank accounts were not provided for this placement; based on information produced (Veros Partners spreadsheets), it appears the following payments were made:

Investor	Payments											Total
	9/24/2011	12/24/2011	3/28/2012	6/28/2012	10/8/2012	12/28/2012	4/1/2013	11/7/2013	1/30/2014	5/30/2014	10/1/2014	
Redacted	1,250.00	1,250.00	1,250.00	1,250.00	1,250.00	1,250.00	1,250.00	1,250.00	1,310.00	1,310.00	1,310.00	13,930.00
Redacted	1,250.00	1,250.00	1,250.00	1,250.00	1,250.00	1,250.00	1,250.00	1,250.00	1,310.00	1,310.00	1,310.00	13,930.00
Redacted	1,250.00	1,250.00	1,250.00	1,250.00	1,250.00	1,250.00	1,250.00	1,250.00	1,310.00	1,310.00	1,310.00	13,930.00
Redacted	770.00	770.00	770.00	770.00	770.00	770.00	770.00	806.96	806.96	806.96	806.96	8,617.84
Redacted	1,250.00	1,250.00	1,250.00	1,250.00	1,250.00	1,250.00	1,250.00	1,250.00	1,310.00	1,310.00	1,310.00	13,930.00
Redacted	1,250.00	1,250.00	1,250.00	1,250.00	1,250.00	1,250.00	1,250.00	1,250.00	1,310.00	1,310.00	1,310.00	13,930.00
Total	7,020.00	7,020.00	7,020.00	7,020.00	7,020.00	7,020.00	7,020.00	7,056.96	7,356.96	7,356.96	7,356.96	78,267.84

- Aliign bookkeeping items noted
 - Aliign did not perform the accounting review for this placement, and as such nothing is noted with respect thereto.
- Other items noted with respect to Private Placement
 - None

It is important to note, that while the scope of the analysis and agreed upon procedures to be performed by Blue and Aliign was not restricted by any of the parties, the Receiver requested that any such analysis and procedures be performed in the most cost-efficient manner with the investor group’s financial interest in mind. Further, it is important to note with respect to this Private Placement, the work performed by Blue (and subsequently Aliign) was limited to the data produced and as such limited in scope. While nothing specifically gives indication of any accounting improprieties associated with this Private Placement during the limited analysis of such data, to the extent bank statements, or other accounting related records were produced, additional observation may have been noted.

As previously noted, the procedures and analyses set forth within this correspondence and as performed by Blue and Aliign, do not constitute a full-scale forensic review, or a fairness opinion with respect to the Private Placement. To the extent additional procedures had been performed, our findings may have been different. As set forth above, and limited to the agreed upon procedures outlined previously specific to this Private Placement, we have not noted any risks (beyond those included in the Private Placement’s offering memorandum and related literature, as prepared by Veros and their representatives), irregularities, or concerns beyond those set forth in this correspondence with respect to the Jeff & Amy Cherry Residential Mortgage.

Regards,

Blue & Co., LLC

Blue & Co., LLC

EXHIBIT B

From: [William Wendling](#)
To: **Redacted**
Cc: [Anita Haworth](#)
Subject: Jeff and Amy Cherry Single Residential Mortgage Loan
Date: Thursday, October 20, 2016 9:21:15 AM
Importance: High

To the Investors of the Jeff and Amy Cherry Single Residential Mortgage Loan:

It is my understanding that you all are in agreement to transfer this private placement out of the Receivership to be self-managed by the Investment Members.

I have drafted, and plan to file, a motion to that effect. Before I file the motion, I must first hear from each of you that you understand and acknowledge that the Cherrys have made no payments on this loan since October of 2014, that this private placement is in financial trouble and the loan is in default, but that you wish to proceed with the transfer in spite of these issues.

Please respond at your earliest possible opportunity, and thank you.

Sincerely,

William E. Wendling, Jr., Receiver

William E. Wendling, Jr.

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Paralegal: Anita G. Haworth, RP®, CEDS (ahaworth@cgglawfirm.com)
Legal Assistant: Lisa A. Clouse (lclouse@cgglawfirm.com)

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

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.

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

**ORDER APPROVING RECEIVER’S MOTION TO TRANSFER VEROS
JEFF AND AMY CHERRY SINGLE RESIDENTIAL MORTGAGE LOAN
TO INVESTMENT MEMBERS**

WHEREAS this matter has come before this Court upon the Receiver’s Motion to Transfer Private Placement, requesting approval of the transfer of the Veros Jeff and Amy Cherry Single Residential Mortgage Loan assets to the Investment Members, and authorizing the Receiver to sign all documents necessary to facilitate the transfer of Veros Jeff and Amy Cherry Single Residential Mortgage Loan;

WHEREAS the Court finds that the Receiver has complied with his duties and obligations as set forth in the Agreed Order Appointing Receiver as to this Private Placement; and,

WHEREAS, the Court finds that the Receiver's proposed transfer of the Veros Jeff and Amy Cherry Single Residential Mortgage Loan assets to the Investment Members is reasonable; and,

WHEREAS, the Court further finds that no funds having been received or moved through the Veros Cherry Farms Receivership bank account;

IT IS THEREFORE ORDERED THAT:

The Receiver's Motion for Authority to Transfer the Veros Jeff and Amy Cherry Single Residential Mortgage Loan is hereby approved. The Receiver is authorized to execute all documents necessary, including a release, to facilitate the transfer of this Private Placement's assets.

Dated: _____

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