

ROBB EVANS & ASSOCIATES LLC

Receiver of

White Pine Trust Corporation

Richard R. Matthews, Jr.

11450 Sheldon Street

Sun Valley, California 91352-1121

Telephone No.: (818) 768-8100

Facsimile No.: (818) 768-8802

**Commodity Futures Trading Commission v. White Pine Trust Corporation, Inc, et al.
CASE No. 04-CV-2093 J (NLS)**

Notice of Motion and Motion of Receiver for Order:

- (1) Approving Payment of Administrative Fees and Expenses Incurred for the Period February 1, 2007 Through April 30, 2007; and**
- (2) Declaration of Brick Kane**

Filed June 19, 2007

1 LINDA J. CANDLER, ESQ. [State Bar No. 181805]
2 ROBB EVANS & ASSOCIATES LLC
3 11450 SHELDON STREET
4 SUN VALLEY, CA 91352
5 TELEPHONE: (818) 768-8100
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8 ATTORNEY FOR ROBB EVANS & ASSOCIATES LLC
9 PERMANENT RECEIVER

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

WHITE PINE TRUST CORPORATION,
a California corporation, RICHARD
MATTHEWS, an individual, and
STEPHAN BAERE, an individual,

Defendants.

CASE NO. 04cv2093-J (NLS)

NOTICE OF MOTION AND
MOTION OF RECEIVER FOR
ORDER (1) APPROVING PAYMENT
OF ADMINISTRATIVE FEES AND
EXPENSES INCURRED FOR THE
PERIOD FEBRUARY 1, 2007
THROUGH APRIL 30, 2007, AND (2)
DECLARATION OF BRICK KANE

Date: August 20, 2007

Time: 9:00 a.m.

Place: Courtroom 12

940 Front Street

San Diego, CA 92101-8900

(Hon. Napoleon A. Jones, Jr.)

[ORAL ARGUMENT NOT REQUIRED]

TO THE HONORABLE NAPOLEON A. JONES, JR., UNITED STATES
DISTRICT COURT JUDGE, AND TO ALL PARTIES AND THEIR ATTORNEYS
OF RECORD:

PLEASE TAKE NOTICE that on August 20, 2007 at 9:00 a.m. in Courtroom 12
of the United States District Court for the Southern District of California located at 940
Front Street, San Diego, California 92101, Robb Evans & Associates LLC, Receiver in the

1 above-captioned case, will present its Motion for an Order approving payment of
2 administrative fees and expenses incurred for the period February 1, 2007 through April
3 30, 2007 (“Motion”).

4 The Receiver’s Motion is based on this Notice of Motion, the Memorandum of
5 Points and Authorities; the Declaration of Brick Kane annexed hereto, and the Court’s
6 records and pleadings on file in this action, and all other evidence, both oral and
7 documentary, as may be presented at the time of hearing.

8 The Receiver’s Motion will request an Order from the Court:

9 1. Authorizing payment of administrative fees of the Receiver and its staff of
10 \$7,085.90 and legal fees and costs of \$2,682.08 and expenses of \$1,068.12 for the period
11 February 1, 2007 through April 30, 2007; and
12

13 PLEASE TAKE FURTHER NOTICE that this Motion is made pursuant to Local
14 Rule 66.1, and is based upon this Notice of Motion, Motion, the accompanying
15 Memorandum of Points and Authorities, and the Declaration of Brick Kane, and upon
16 such other pleadings and oral and documentary evidence as may be presented at or before
17 the time of the hearing on the Motion. Pursuant to Local Rule 66.1(f)(4), the Receiver is
18 required to give at least ten days notice to all interested parties of the time and place for
19 hearings on applications for fees of the Receiver. The Receiver has served the parties by
20 electronic mail or by US mail.

21 Any person or entity opposing this Motion must timely file with the Court and
22 serve upon the Receiver, whose name and address appear in the upper left-hand corner of
23 the first page of this Motion, a written opposition which complies in all respects with the
24 rules of this Court. Failure to timely file an opposition may be deemed by the Court to be
25 consent to the granting of the Receiver’s Motion.
26

27 PLEASE TAKE FURTHER NOTICE that this Motion is posted on the Receiver’s
28 website at <http://www.robbevans.com/html/whitepine.html>, where it may be reviewed in

1 its entirety. A copy of this Motion, along with all exhibits, will be provided to any
2 interested party, upon receipt of a request therefore which may be directed to: Robb
3 Evans & Associates LLC, Attn: Cherrie Eustaquio, 11450 Sheldon Street, Sun Valley, CA
4 91352 telephone: (818) 768-8100, facsimile: (818) 768-8802.

5

6 PLEASE TAKE FURTHER NOTICE that, if no party objects to the Motion, the
7 Receiver is willing for the Court to consider it without oral argument.


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9 Dated: June 19, 2007

ROBB EVANS & ASSOCIATES LLC

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By: 
LINDA J. CANDLER, ESQ.
ATTORNEY FOR RECEIVER
LINDA_CANDLER@ROBBEVANS.COM

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I.

INTRODUCTION

This action was commenced by the Commodity Futures Trading Commission (“CFTC”) against the Receivership Defendants, who are alleged to have committed fraud against investors by luring them to invest in an illegal foreign currency fund, in violation of federal laws. On October 21, 2004, Robb Evans & Associates LLC (“REA” or “Receiver”) was appointed as Temporary Receiver in the within action pursuant to an “*Ex Parte* Statutory Restraining Order; Order Permitting Expedited Discovery, the Appointment of a Receiver and Other Equitable Relief”. Thereafter, on November 2, 2004, the Court entered an Order of Preliminary Injunction (“Order”). On November 18, 2004, the CFTC filed an Amended Complaint which added Lucia Matthews as a Relief Defendant and Stephan Baere as a Receivership Defendant. Pursuant to the terms of the Order of Preliminary Injunction, REA was appointed as Receiver for Defendants, and all of the funds, properties, premises, accounts and other assets directly or indirectly owned, beneficially or otherwise, by them with the full powers of an equity Receiver. Since the appointment, the Receiver has investigated, taken control of, and liquidated assets of the Receivership estate in excess of \$6 million. On January 19, 2007, the Receiver made a distribution to all investors, on a pro rata basis in the total amount of \$3,186,943.74.

Prior Requests for Approval of Fees and Expenses

On June 6, 2005, the Receiver submitted its first request for approval of fees and expenses of the Receiver and its staff. That Court granted the Receiver’s first request pursuant to an Order entered on July 22, 2005, which approved and authorized payment of administrative fees and expenses totaling \$214,678.11 of the Receiver and its staff for the period October 21, 2004 through April 30, 2005. The Receiver’s second request for approval of fees and expenses for the period May 1, 2005 through August 31, 2005, totaling \$59,310.64 was filed October 20, 2005 [Docket Entry 98] and approved in its

1 entirety on June 16, 2006. The Receiver's third request for approval of fees and expenses
2 for the period September 1, 2005 through May 31, 2006, totaling \$61,981.84 was filed June
3 22, 2006 [Docket Entry 169] and approved in its entirety on January 9, 2007. The
4 Receiver's fourth request for approval of fees and expenses for June 1, 2006 through
5 January 31, 2007 was filed on April 10, 2007 and is currently pending for approval.

6
7 **II.**

8 **RECEIVER'S FEES AND EXPENSES FOR THE PERIOD**
9 **FEBRUARY 1, 2007 THROUGH APRIL 30, 2007**

10 By this Motion, the Receiver seeks approval and authority for payment of the fees
11 and expenses of the Receiver, the Receiver's staff, and the Receiver's counsel for the
12 period February 1, 2007 through April 30, 2007. The fees and expenses for which
13 approval is requested are set forth in the summary entitled "Fund Balance & Expenses by
14 Month" attached hereto as Exhibit "1". This Summary includes the fees and expenses
15 approved by the first, second and third fee applications and also includes the fees and
16 expenses in the fourth fee application that is currently pending. For this current
17 application, the fees and expenses of the Receiver include the following itemized items:
18 Receiver's Fees of \$2,226.00 (Exhibit "2" hereto), staff fees for Financial Reconstruction
19 and Distribution of \$1,344.00 (Exhibit "3" hereto), staff fees for Information Technology
20 and Database Maintenance of \$412.55 (Exhibit "4" hereto), and legal fees of \$2,640.00
21 (Exhibit "5" hereto).

22 As set forth in detail in Exhibits "1" through "5" hereto, and including additional
23 out-of-pocket expenses and support staff fees as itemized on Exhibit "1," the Receiver has
24 incurred \$11,376.10 in fees and expenses for the period February 1, 2007 through April 30,
25 2007.

26 **Overview of Services Performed by the Receiver and its Staff**

27 During the period February 1, 2007 through April 30, 2007 the Receiver and its
28 staff continued efforts to maintain the assets of this Receivership Estate, in accordance

1 with the duties conferred upon it by this Court. Included in Exhibit "1" is a separate
2 summary of funds expended during the period February 1, 2007 through April 30, 2007
3 for the maintenance and preservation of Receivership Estate assets. These expenditures
4 are for mortgage payments, insurance appraisal and utilities - for the real property
5 purchased by Defendant Matthews with White Pine Trust investor funds.

6 Included in Exhibit "1" hereto is the Receivership Estate's Fund Balance and
7 Expenses by month. At April 30, 2007, the value of those assets is estimated at
8 \$1,307,737.25. At April 30, 2007, the Receivership Estate had cash in its accounts totaling
9 \$1,364,059.78 following payment of Receivership administrative expenses and expenses
10 relating to asset protection and preservation and the distributions to investors. Remaining
11 unliquidated assets include real property. An additional \$80,000 was paid to the Receiver
12 on May 4, 2007 as part of a settlement with members of Defendant Matthews' family who
13 received loans from White Pine Trust. As part of this settlement, an additional \$80,000,
14 plus interest, will be paid on or about February 2008.

15 In addition to this settlement, the Receiver has completed the sale of the island in
16 Belize known as Mojo Caye. A purchase and sale agreement was entered into on April 28,
17 2006 and signed by the purchaser May 2, 2006 for a total sales price of \$2 million USD.
18 The property was sold subject to the buyer's assumption of a promissory note with a
19 balance as of June 1, 2006 of \$1,240,533.45, with monthly mortgage payments of
20 \$17,797.95. After payment of the expenses of sale, the net proceeds paid to the Receiver
21 were \$602,463.30. These funds are being held by the Receiver pending approval of the
22 Receiver's Motion for Approval of a Claims Distribution, filed simultaneously herewith.

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III.

CONCLUSION

In light of the extensive and successful work performed, it is respectfully submitted that the fees and expenses of the Receiver and its professionals are reasonable and should be approved and authorized for payment.

WHEREFORE, the Receiver prays that this Court enter an Order as follows:

1. Approving and authorizing payment of administrative fees and expenses of the Receiver and its staff for the period February 1, 2007 through April 30, 2007, as more particularly set forth herein.

Dated: June 19, 2007

ROBB EVANS & ASSOCIATES LLC

By: *Linda J. Candler*
LINDA J. CANDLER, ESQ.
ATTORNEY FOR RECEIVER
LINDA_CANDLER@ROBBEVANS.COM

DECLARATION OF BRICK KANE

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I, BRICK KANE, declare as follows:

1. I am the Chief Operating Officer of Robb Evans & Associates LLC, the duly appointed, qualified and acting Receiver in the within action. I have reviewed the foregoing Motion and know the contents thereof, and the same is true of my own knowledge, except as to those matters, which are stated upon information or belief, and as to those matters, I believe them to be true.

2. On June 6, 2005, the Receiver submitted its first request for approval of fees and expenses of the Receiver and its staff. That Court granted the Receiver's first request pursuant to an Order entered on July 22, 2005, which approved and authorized payment of administrative fees and expenses totaling \$214,678.11 of the Receiver and its staff for the period October 21, 2004 through April 30, 2005. On October 20, 2005, the Receiver submitted its second fee application, for approval of administrative fees and expenses totaling \$59,310.64 for the period May 1, 2005 through August 31, 2005. The Court granted the Receiver's second request pursuant to an Order entered on June 16, 2006. The Receiver's third request for approval of fees and expenses for the period September 1, 2005 through May 30, 2006, totaling \$61,981.84 was submitted on June 22, 2006 and approved by this Court on January 9, 2007. The Receiver's fourth request for approval of fees and expenses for June 1, 2006 through January 31, 2007 was filed on April 10, 2007 and is currently pending for approval.

3. By this Motion, the Receiver submits its fifth Application of fees and expenses and seeks an Order approving and authorizing payment of administrative fees of the Receiver and its staff of \$7,085.90, legal fees and costs of \$2,682.08 and expenses of \$1,068.12 for the period February 1, 2007 through April 30, 2007.

4. Attached hereto as Exhibit "1" is an accounting entitled "Fund Balance and Expenses by Month." Attached hereto as Exhibit "2" is an itemization of the Receiver's fees of \$2,226.00. Attached hereto as Exhibit "3" is an itemization of staff fees for

1 Financial Reconstruction and distribution of \$1,344.00. Attached hereto as Exhibit "4" is
2 an itemization of staff fees for Information Technology and Database Maintenance of
3 \$412.55. Attached hereto as Exhibit "5" is an itemization of legal fees of \$2,640.00. As
4 set forth in detail in Exhibits "1" through "5" hereto, including out-of-pocket expenses as
5 itemized on Exhibit "1," the Receiver has incurred \$11,376.10 in fees and expenses for the
6 period February 1, 2007 through April 30, 2007.

7
8 5. During the period February 1, 2007 through April 30, 2007, the Receiver and
9 its staff continued to recover missing assets and assets transferred to third parties.

10 6. The Receiver has expended considerable time and effort to maintain the
11 assets of this receivership estate, in accordance with the duties conferred upon it by this
12 Court. Included in Exhibit "1" is a separate summary of funds expended during the
13 period February 1, 2007 through April 30, 2007 for the preservation of receivership estate
14 assets. Such expenditures include insurance, mortgage payments, and utilities.
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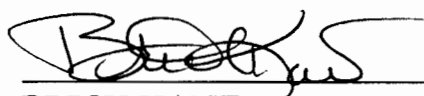
16 7. Included in Exhibit "1" hereto is the Receivership Estate's Fund Balance
17 and Expenses by month. At April 30, 2007, the receivership estate had cash in its
18 accounts totaling \$1,307,737.25 following payment of Receivership administrative
19 expenses and expenses relating to asset protection and preservation. The Receiver
20 received an additional settlement payment of \$80,000 on or about May 4, 2007.
21

22 8. In light of the extent of the work performed during this period, and the
23 results achieved, I believe that the fees and expenses of the Receiver and its staff are
24 reasonable and should be approved and authorized for payment.
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26 9. This Motion has been timely emailed to all parties to the action; and it will be
27 posted on the Receiver's website. A copy of this Motion, along with all exhibits, will be
28

1 provided to any interested party, upon receipt of a request therefore which may be
2 directed to: Robb Evans & Associates LLC, Attn: Cherrie Eustaquio, 11450 Sheldon
3 Street, Sun Valley, CA 91352 telephone: (818) 768-8100, facsimile: (818) 768-8802.
4

5 I believe that these procedures will save time and money for the receivership estate.
6 I am aware that many of the investors communicate with the Receiver by email and
7 regularly check the Receiver's website for updates on the case. I declare under penalty of
8 perjury under the laws of the United States of America that the foregoing is true and
9 correct. Executed this 19 day of June 2007 at Sun Valley, California.

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13 BRICK KANE
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1 LINDA J. CANDLER, ESQ. [State Bar No. 181805]
2 ROBB EVANS & ASSOCIATES LLC
3 11450 SHELDON STREET
4 SUN VALLEY, CA 91352
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ATTORNEY FOR ROBB EVANS & ASSOCIATES LLC
PERMANENT RECEIVER

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

WHITE PINE TRUST CORPORATION,
a California corporation, RICHARD
MATTHEWS, an individual, and
STEPHAN BAERE, an individual.

Defendants.

CASE NO. 04cv2093-J (NLS)

MEMORANDUM OF POINTS &
AUTHORITIES IN SUPPORT OF
MOTION FOR AN ORDER
APPROVING PAYMENT OF
ADMINISTRATIVE FEES AND
EXPENSES INCURRED FOR THE
PERIOD FEBRUARY 1, 2007
THROUGH APRIL 30, 2007

Date: August 20, 2007

Time: 9:00 a.m.

Place: Courtroom 12

940 Front Street

San Diego, CA 92101-8900

(Hon. Napoleon A. Jones, Jr.)

[ORAL ARGUMENT NOT REQUESTED]

Federal Rules of Civil Procedure, Rule 66, states, in part:

The practice in the administration of estates by receivers or by other similar officers appointed by the court shall be in accordance with the practice heretofore followed in the courts of the United States or as provided in rules promulgated by the district courts. In all other respects the action in which the appointment of a receiver is sought or which is brought by or against a receiver is governed by these rules.

Local Rule 66.1.c. states as follows:

