

**ROBB EVANS & ASSOCIATES LLC**

**Receiver of**

**White Pine Trust Corporation**

**Richard R. Matthews, Jr.**

11450 Sheldon Street

Sun Valley, California 91352-1121

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**Commodity Futures Trading Commission v. White Pine Trust Corporation,  
Inc, et al.**

**CASE No. 04-CV-2093 J (NLS)**

**Order:**

- (1) Granting Receiver's Motion for Approval and Confirmation of Real Property Sale; and**
- (2) Approving Receiver's Procedures for Limited Notice Thereof**

**Filed August 12, 2005**

FILED

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CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

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

12 COMMODITY FUTURES TRADING  
13 COMMISSION,

14 Plaintiff,

15 v.

16 WHITE PINE TRUST CORPORATION,  
17 a California corporation; RICHARD  
18 MATTHEWS, an individual; and  
19 STEPHAN BAERE, an individual,

20 Defendants,

21 LUCIA MATTHEWS, an individual,  
22 Relief Defendant.

Civil No. 04cv2093 J (NLS)

**ORDER:**

**(1) GRANTING RECEIVER'S  
MOTION FOR APPROVAL AND  
CONFIRMATION OF REAL  
PROPERTY SALE; AND**

**(2) APPROVING RECEIVER'S  
PROCEDURES FOR LIMITED  
NOTICE THEREOF**

23 Before the Court is court-appointed Receiver Robb Evans & Associates' ("the Receiver")  
24 Motion regarding the sale real property presently owned by Defendant Richard Matthews. [Doc.  
25 No. 79.] None of the parties nor any related third parties have opposed. The Court has  
26 determined that the issues presented herein are appropriate for decision without oral argument.  
27 See Civil Local Rule 7.1.d.1. For the reasons discussed below, the Court **GRANTS** the  
28 Receiver's Motion.

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1 *Legal Standard*

2 The private sale of real property subject to federal court authority is governed by 28  
3 U.S.C. § 2001(b). Under §2001(b), a district court may tailor the conditions and terms of a  
4 private judicial sale to satisfy the best interests of the estate. However, the statute sets forth  
5 procedural requirements that must be met before the court may confirm a private sale.  
6 Specifically, the court must (1) appoint three disinterested persons to appraise the property; and  
7 (2) require publication of the sale terms in a general circulation newspaper at least ten days  
8 before confirmation. 28 U.S.C. §2001(b). Additionally, the court must not confirm a sale where  
9 the price is less than two-thirds of the appraised value or where a bona fide offer that is more  
10 than ten percent greater than the offer price is presented. *Id.*

11 *Discussion*

12 **I. Sale Confirmation**

13 In compliance with §2001(b) requirements, the Receiver has provided the Court with  
14 evidence that at least three disinterested persons have appraised the real property at issue.  
15 Moreover, the Receiver has informed the Court that a potential buyer has agreed to purchase the  
16 property for \$3,300,000, a price significantly above (1) the average appraiser estimate of  
17 \$2,867,000; and (2) the highest appraisal value of \$3,000,000.

18 **II. Notice Procedures**

19 Local Civil Rule 66.1(f)(2) requires that a receiver notify interested parties of all hearings  
20 on the receiver's petitions for confirmations of property sales at least ten days in advance. Here,  
21 the Receiver has provided the Court with evidence that the proposed sale and the essential terms  
22 thereof was published in (1) the San Diego Union Tribune on July 11, 2005; and (2) the Uptown  
23 Examiner on July 13, 2005. Additionally, on July 20, 2005 the Receiver filed with the Court a  
24 Notice to Investors and Creditors of the instant Motion. [Doc. No. 81.] Moreover, said Notice  
25 indicates that (1) the Motion is posted in its entirety on the Receiver's website at  
26 [www.robbevans.com/html/whitepine.html](http://www.robbevans.com/html/whitepine.html); and (2) written copies will be furnished to any  
27 interested party upon request. The Receiver has also served copies of the Motion to all parties  
28 named in this action and mailed copies of the Notice to all known investors and creditors.

1 **Conclusion and Order**

2 Having reviewed the Motion and all supporting papers, and no opposition to the Motion  
3 having been filed despite due and proper notice, the Court rules as follows:

4 (1) The Motion is **GRANTED**;

5 (2) The Court approves appointment of the three disinterested appraisers identified in the  
6 Motion and whose qualifications and appraisal are attached thereto, respectively, as  
7 Exhibits "B" and "C" – namely Deanne Recht, Walter J. Stevens, and Luke Conerly;


8 (3) The Court finds that the best interests of the estate will be preserved by the sale of real  
9 property consisting of a single family residence located at 5435 Calumet Avenue, La  
10 Jolla, California, 92037-7604, in the County of San Diego, Assessor's Parcel No. 357-6-  
11 4-17-00 ("Property"), to Joseph S. Sapp ("Sapp") for a gross sale price of \$3,300,000,  
12 pursuant to the June 23, 2005 "Residential Purchase Agreement and Joint Escrow  
13 Instructions" and addenda thereto ("Agreement"), a copy of which is collectively attached  
14 to the Motion as Exhibit "D". As such, the sale is hereby authorized and confirmed;

15 (4) The Receiver is authorized to take all steps and execute all documents and instruments  
16 necessary to complete the sale of the Property to Sapp pursuant to the Agreement,  
17 including executing such deeds and instruments and paying such real property tax liens  
18 and ordinary and customary escrow, title insurance and closing expenses as provided in  
19 the Agreement; and

20 (5) The Court approves the notice procedures set forth in the Receiver's Motion.

21 **IT IS SO ORDERED.**

22 Dated: 8-11-05

23   
24 **NAPOLEON A. JONES, JR.**  
25 United States District Judge

26 cc: Magistrate Judge Stormes  
27 All Counsel of Record  
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