UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

In re: **Cline Grain, Inc.,** **Allen L. Cline & Teresa A. Cline,** **Michael B. Cline & Kimberly A. Cline,** Debtors	Case No: 17-80004-JJG-11 JOINTLY ADMINISTERED

Debtor's Motion For Entry Of Order Authorizing Debtor To Utilize Cash Collateral Pursuant To 11 U.S.C. §363 And Granting Adequate Protection

In support of the above-entitled motion (this "Motion"), New Winchester Properties, LLC, a debtor and debtor-in-possession (the "Debtor"), by counsel, states:

I. Background

1. The Debtor filed its petition for relief under Title 11, Chapter 11 of the United States Code on January 3, 2017 (the "Petition Date").

2. The Debtor has continued after the Petition Date in the possession of its property and the management of its business as a Debtor-in-Possession pursuant to 11 U.S.C. §1107 and 1108.

3. On January 10, 2017, this Court order the joint administration of all the Debtors' cases under the caption above.

4. This Court has jurisdiction over this Motion and this matter pursuant to 28 U.S.C. §157(b). Venue of this case and this Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

5. The statutory predicates for relief are §§ 103, 105(a), 361, 363(a), 363(c)(2), 1007, and 1108 of the Bankruptcy Code; Federal Rule of Bankruptcy Procedure 4001(b); and Southern District of Indiana Local Rule B-4001-2.

6. On April 27, 2017, the Court entered the *Amended Order Approving Debtor's Application to Employ Auctioneer* [Docket #260] (the "Order") whereby the Debtor obtained authority to

employ Maas Companies, Inc. ("Maas") as auctioneer to the Debtor in liquidating several tracts of real estate and related equipment. Per the Order, the Debtor obtained authority to pay Maas its Marketing I Pre-Marketing fee of $1,500.00 and Marketing II Advertising and Marketing Fee of $24,837.47 (collectively, the "Marketing Fees").

7. This Motion is being filed to request authority to use the Debtor's cash collateral to help pay the Marketing Fees. Contemporaneously with the filing of this Motion, Cline Grain, Inc. ("Cline Grain") is also filing a motion requesting authority to use its cash to help pay the Marketing Fees.

II. Cash Use Facts

8. The Debtor currently has has $6,000.00 (the "Cash Collateral") in its checking account at Huntington Bank. Those funds represent cash rents from the New Market real estate. Cline Grain currently has $23,710.30 in its checking account at Huntington Bank. These funds represents proceeds from sold grain.

9. The Marketing Fees total $26,337.47. The Debtor and Cline Grain propose that the Debtor (New Winchester) pay all of its cash collateral towards the Marketing Fees as Maas is employed to help liquidate the Debtor's property and that the Cline Grain pays the balance ($20,337.47).

10. By this Motion, the Debtor seeks authority to pay $6,000.00 of the Marketing Fees.

11. Pinnacle Agriculture Distribution, Inc. d/b/a Providence Agriculture d/b/a Providence — New Era d/b/a Jimmy Sanders Incorporated ("Pinnacle") may assert a lien in the Cash Collateral by virtue of filed mortgage on the New Market property.

12. The Debtor is unaware of any other parties who may assert a perfected lien on the Cash Collateral.

13. The Debtor has moved to avoid the mortgages of Pinnacle in an adversary proceeding in this matter as fraudulent transfers. Accordingly, Pinnacle should not be permitted to assert an objection of the use of cash collateral herein proposed.

14. Nevertheless, use of the Cash Collateral to sell the elevators of the Debtor (upon all of which Pinnacle has a mortgage) benefits the estate and Pinnacle. If Pinnacle's mortgage is determined to be valid, the sale will provide cash to Pinnacle. If the mortgage is not valid, Pinnacle may participate as an unsecured creditor in a distribution from the sale of the elevators.

III. Basis for Relief

15. Pursuant to 11 U.S.C. §363(c)(2), the Debtor may use cash collateral only if the parties with an interest in the Cash Collateral consent or the Court authorizes the use of such

cash collateral after notice and a hearing. Here, the Debtor should not be required to obtain the consent to use the Cash Collateral from Pinnacle because the mortgage is subject to avoidance and is in bona fide dispute. Additionally, the Debtor shall serve this Motion pursuant to Fed. R. Bankr. Proc. 4001(b)(1)(C), and a hearing will be held on this Motion.

16. The Debtor submits that none of the provisions of S.D. Ind. L.R. B-4001-2(b) apply.

IV. Request For Relief

The Debtor respectfully requests that this Court grant all just and proper relief in the premises on this Motion, including entry of an order for use of cash collateral.

Respectfully submitted,

/s/ Jeffrey M. Hester
Jeffrey M. Hester
Christopher E. Baker
John J. Allman
Suite 1600
One Indiana Square
Indianapolis, IN 46204
jhester@hbkfirm.com
317.608.1129 direct
317.833.3031 fax

Certificate Of Service

I hereby certify that on May 8, 2017, a copy of the foregoing *Debtor's Motion For Entry Of Order Authorizing Debtors To Utilize Cash Collateral Pursuant To 11 U.S.C. And Granting Adequate Protection* was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

- **U.S. Trustee** — ustpregion10.in.ecf@usdoj.gov
- **Ronald J. Moore** — ronald.moore@usdoj.gov
- **Jay Jaffe** — jay.jaffe@faegrebd.com
- **Elizabeth M. Little** — elizabeth.little@faegrebd.com
- **Kayla D. Britton** — kayla.britton@faegrebd.com
- **Gary D. Barnes** — gbarnes@bakerdonelson.com
- **Whitney L. Mosby** — wmosby@bgdlegal.com
- **Scott R. Leisz** — sleisz@bgdlegal.com
- **James E. Carlberg**—jcarlberg@boselaw.com
- **Charles F. Miller**—cfmjratty@iquest.net
- **James P. Moloy** — jmoloy@boselaw.com
- **Michael J. Hebenstreit** — mjh@whzlaw.com; arlene@whzlaw.com
- **Jeffrey A. Hokanson** — jeff.hokanson@icemiller.com
- **W. Randall Kammeyer** — wrkammeyer@hawkhaynie.com
- **Sarah L. Fowler** — sarah.fowler@icemiller.com
- **Michael J. Hebenstreit** —mjh@whzlaw.com
- **Heather M. Crockett** — heather.Crockett@atg.in.gov
- **Karen L. Lobring** — lobring@msn.com
- **Harley K. Means** — HMeans@kgrlaw.com
- **James G. Lauck** — JLauck@kgrlaw.com
- **Rachana N. Fischer** — rachana.Fischer@usdoj.gov
- **Andrew T. Kight** — akight@jnklegal.com

/s/ Jeffrey M. Hester
Jeffrey M. Hester