

PARSONS, SMITH & STONE, LLP
LAWYERS
BURLEY, IDAHO

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

U.S. COURTS

03 JUL -7 PM 3:49

CLERK
P
IDAHO

Lance A. Loveland
PARSONS, SMITH, & STONE, LLP
137 West 13th Street
P.O. Box 910
Burley, Idaho 83318
(208) 878-8382
(208) 878-0146 - fax
Idaho State Bar #5787
Attorneys for D.L. Evans Bank

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF IDAHO

In Re:)	Case No. 03-41318
)	
)	
LYNN E. KETTERLING and)	
REBECCA J. KETTERLING)	<u>OBJECTION TO DEBTORS' MOTION</u>
d/b/a KETTERLING FARMS,)	<u>FOR USE OF CASH COLLATERAL</u>
)	
Debtor.)	

COMES NOW, D.L. Evans Bank, secured creditor herein, by and through its counsel of record, and pursuant to 11 U.S.C. §361, §363, and Local Bankruptcy Rule 4001.1, hereby objects to the Debtors' Motion for Use of Cash Collateral on the grounds and for the reasons that D.L. Evans Bank will suffer irrefutable damage to the loss and value of its collateral in the event that it is turned into cash collateral and dissipated based upon the following:

- 1. The protection proposed in Debtors' motion will not

||

1 result in the realization by the bank of the indubitable
2 equivalent of its interest in the cash collateral in which the
3 Debtors seek to use.

4 2. Debtors' motion fails to provide a description of the
5 property from which rent is generated and fails to provide a
6 basis of the fair market value which would allegedly secures D.L.
7 Evans Bank's claims.

8 3. The rent amount that Debtors are claiming does not match
9 the income listed on the Income schedule provided by the Debtors.

10 4. D.L. Evans Bank further objects to the motion as
11 Debtors' income projections are unsupported by its past
12 performance and that the calving operation has failed to generate
13 profit since January 2003, and D.L. Evans Bank has seen its
14 collateral of 864 head of cattle as of January 1, 2003,
15 significantly reduced to 465 head with no payment being made to
16 D.L. Evans Bank from said cattle operation.

17 5. In addition, Debtors have failed to provide an adequate
18 basis for the estimated value of the collateral to be given as
19 adequate protection. Further, Debtors' papers merely indicate
20 Debtors' willingness to provide adequate protection, but gives no
21 specifics as to the extent, amount, or terms of replacement
22 liens.
23

24 6. The Debtors moving papers are deficient in the amount of
25 documentation and information provided. The notice necessary to
26 obtain approval and the extent or terms or use of the cash
collateral is also deficient. Debtors' moving papers only

1 indicate the extent of cash collateral that the Debtors hold, but
2 does not indicate the amount to be paid to D.L. Evans Bank out of
3 said difference in expenses and income.

4 7. Assuming the Court agrees to allow Debtors to give a
5 mortgage on their farm if necessary, to secure the actual amount
6 of cash collateral to use, such is not the indubitable equivalent
7 as D.L. Evans Bank would have to pay out more than \$222,000.00
8 simply to redeem any value in the farm. This assumes that
9 Debtors' value is appropriate.

10 WHEREFORE, in consideration of the above, D.L. Evans Bank
11 requests this Court deny Debtors' Motion for Use of Cash
12 Collateral, or in the alternative to grant adequate protection to
13 Zions by requiring the Debtors to provide D.L. Evans Bank with
14 adequate protection for the use of cash collateral which is the
15 indubitable.
16

17 DATED this 3 day of July, 2003.

18 PARSONS, SMITH & STONE, LLP

19
20 
21 Lance A. Loveland
22 Attorney for D.L. Evans Bank
23 P.O. Box 910
24 Burley, ID 83318
25
26

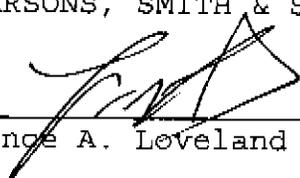
PARSONS, SMITH & STONE, LLP
LAWYERS
BURLEY, IDAHO

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 3 day of July, 2003, I caused a true and correct copy of the foregoing OBJECTION TO DEBTORS' MOTION FOR USE OF CASH COLLATERAL to be served upon the following person(s) in the following manner:

US Trustee 304 N 8 th Street #347 Boise ID 83702	<input checked="" type="checkbox"/> _____ _____ _____ _____	United States Mail Fax Hand Delivery Other
Warren Derbidge PO Box 32 Boise ID 83707	<input checked="" type="checkbox"/> _____ _____ _____ _____	United States Mail Fax Hand Delivery Other
Jeffrey M. Wilson PO Box 1544 Boise ID 83701	<input checked="" type="checkbox"/> _____ _____ _____ _____	United States Mail Fax Hand Delivery Other
Forrest Hymas PO Box 89 Jerome ID 83338	<input checked="" type="checkbox"/> _____ _____ _____ _____	United States Mail Fax Hand Delivery Other
D. Blair Clark PO Box 2773 Boise ID 83701	<input checked="" type="checkbox"/> _____ _____ _____ _____	United States Mail Fax (208)342-4657 Hand Delivery Other

PARSONS, SMITH & STONE, LLP


Lance A. Loveland